S. HRG. 112–131

MISCELLANEOUS PUBLIC LANDS AND FORESTS BILLS

HEARING

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

OF THE

COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

ON

S. 233
S. 268
S. 375
S. 714
S. 730

MAY 25, 2011

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MISCELLANEOUS PUBLIC LANDS AND FORESTS BILLS

Wednesday, May 25, 2011

U.S. SENATE,
SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:33 p.m. in room SD-366, Dirksen Senate Office Building, Hon. Ron Wyden presiding.

OPENING STATEMENT OF HON. RON WYDEN, U.S. SENATOR FROM OREGON

Senator WYDEN. The subcommittee will come to order. This afternoon the subcommittee is going to receive testimony on the remaining bills that have been reintroduced from the last Congress. As was the case for the bills on last week's hearing schedule, all the bills were considered by the subcommittee last Congress. The purpose of today's hearing is to update the record and to allow committee members an opportunity to ask any questions they may have.

The bills on today's agenda include:

S. 233, the North Fork Watershed Protection Act

S. 268, the Forest Jobs and Recreation Act

S. 375, the Good Neighbor Forestry Act

S. 714, the Reauthorization of the Federal Land Transaction Facilitation Act and

S. 730, the Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act.

Obviously the subcommittee's got a lot to cover this afternoon.

In addition to statements from committee members, three of our colleagues have asked to speak in support of their bills. We'll have several witnesses testifying on behalf of the Obama Administration. Finally we'll wrap up with a panel of witnesses from Montana and Alaska, who have certainly traveled far to speak on the bills that are of interest to them.

I know that these bills are important to my colleagues who have undertaken a great deal of work on these issues. A few of the bills are a little bit more complicated and a little bit more controversial than the bills that the subcommittee considered last week. But I want to re-emphasize my commitment to continue to work with all of the bill's sponsors to find a way to move these bills through the Senate and get them enacted into law this Congress.

I know there are a lot of issues of concern on both sides. But I think the fact there has been so much hard work put in. Not just from the bill's sponsors but from many of the other interested parties that we have an opportunity to address these issues and to move forward.

I'm pleased that among today's bills is S. 714, to reauthorize Federal Land Transaction Facilitation Act. I'm a co-sponsor of this legislation that's been introduced by the chairman of the committee, Senator Bingaman. This authority is set to expire this summer, provides the Bureau of Land Management the ability to dispose of properties that simply don't any longer make sense for them to own. The funds then can be used to acquire critical properties such as in holdings that are surrounded by other Federal lands.

In my home State this fiscally responsible program has been used to sell lands to ranchers, who are able to expand their ranches with lands the BLM does not need. The funds from those sales have then been used to acquire some truly magnificent properties such as lands along the Rogue National Wild and Scenic River and in our National Wildlife Refuges. So I'm very much hoping that this legislation will be reauthorized.

At this time I want to recognize my colleagues, the Ranking Member of the full committee is here today, Senator Murkowski and then Senator Barrasso. I want to welcome my friends and colleagues beginning with Senator Murkowski.

STATEMENT OF HON. LISA MURKOWSKI, U.S. SENATOR FROM ALASKA

Senator MURKOWSKI. Thank you, Mr. Chairman. I do thank you for holding this hearing on all of these bills. I will be confining my remarks here to S. 730 which is what most Alaskans refer to as the Sealaska Lands Bill.

First of all I'd like to welcome the two witnesses who have come from Alaska to testify today.

Byron Mallott, who is a Board Member and former President and CEO of Sealaska.

And also Myla Poelstra, of Edna Bay, who I know has concerns about the bill and its impact to her community.

I welcome the proposals, what I know to be constructive changes in the bill from Myla. To you, Byron, I certainly understand the desire of Alaska natives to finally, after some 40 years, get their long promised land. So I thank you for coming today. Myla, I thank you as well.

I ask, Mr. Chairman, that I submit for the record a rather lengthy statement and several of these documents that I have that pertain to S. 730, if I can make them part of the record as well.

Senator WYDEN. Without objection, so ordered.

Senator MURKOWSKI. I would like to just briefly summarize why I continue to strongly support this bill. I appreciate the support of my colleague, Senator Begich. I'm pleased that he's here this afternoon to lend his comments as well.

Back in 1971 Congress passed the Alaska Native Claims Settlement Act which gave Sealaska, the corporation that represents the region's nearly 20,000 native shareholders, the right to select only about 375,000 acres in return for giving up native Aboriginal

claims to most of the 23 million acres that make up Southeast Alaska. As I mentioned it's been 40 years. ANCSA will have its 40th anniversary coming up on December 18 of this year. Forty years is a long time to be waiting for these land issues to be resolved.

This bill allows Sealaska to select other lands to complete its entitlement. These lands are not part of parks or wilderness. The bill attempts to encourage Sealaska to diversify, to reduce timber harvesting by giving the corporation access to some sites where they can develop their businesses whether it's in renewable energy, whether it's tourism. In return the corporation has to give unprecedented public access to their private property allowing hunters and recreationalists to utilize their timber lands and cross their development and sacred sites honoring all existing easements.

Now from an environmental standpoint, this bill is clearly beneficial. It will likely result in Sealaska logging about 38,000 fewer acres of old growth timber than it could have done initially if forced to stay within its original selection boxes. It pushes Sealaska to focus on second growth, smaller diameter timber, exactly what the Obama administration says it wants to see happen in Alaska.

But without passage of this bill, Sealaska will likely be forced out of the timber business. Frankly, that is why, I believe, some groups may well oppose this bill. Because if Sealaska totally leaves the timber business, then the rest of the wood products industry in Southeast Alaska which is already hanging by a thread will almost certainly collapse.

Sealaska is vital to helping fund the infrastructure needed, not just by timber, but by the cruise industry, the construction industry, and the heavy equipment repair firms. The region's 16 percent unemployment rate will only rise contributing to even worse social conditions in Southeast. This is the only area in the State where we're continuing to see falling populations, falling family incomes.

The economic situation is Southeast is difficult right now. I know that. I was born in Ketchikan. I played as a child in Wrangell. I know how precious every acre of the Tongass is to all who live there even though this bill affects just three-tenths of a percent of the entire forest.

Now we have worked. We have worked aggressively over the past several years to really hear, to listen, to understand the concerns that have been raised and to address them. We have changed the bill markedly since last year, specifically to protect the land closest to Edna Bay to remove all of the acreage closest to the communities of Point Baker and Port Protection where we heard so much concern.

The bill has been modified to meet the concerns voiced by Tenakee, Sitka, Petersburg, Craig, Juneau, Ketchikan, Kake, Thorne Bay, Hoonah, Naukati and Klawock residents just to name a few. But have these changes satisfied everyone? No, they have not.

But what this bill finally comes down to is that it was not right. It was unfair to Southeast natives who lived in a region the size of the State of Indiana, to have had their lands taken away from them. We here in the Federal Government confiscated millions of

acres to form the Tongass Forest and to create the Glacier Bay National Park early last century.

Natives fought for decades for compensation, finally getting that compensation in the 60s. It was about 32 cents an acre is what it came down to. When the larger Native Claims Settlement Act finally passed in 1971, the Southeast natives were basically told that they couldn't select very much land in return. They should have gotten 9.6 million acres, but we told them that they had to settle for 375,000 acres in State or select it outside of Alaska, since the land by then had been committed to long term timber sales to two regional pulp mills.

Mr. Chairman, those pulp mills are gone. But unless this bill passes we do have, again, some very dire economic situations within the panhandle region. I have listened hard. I have worked with all sides to really try to make this bill more fair to everyone in the region.

I've accepted more than 150 changes in the bill since 2008. I've really tried to work to make sure that this bill doesn't harm the wildlife, doesn't harm the environment or the economy of the panhandle. I want to make sure that this legislation, not only addresses the equity that is at stake here for the Sealaska shareholders, but also for those who live and work and raise their families in the region.

Mr. Chairman, I look forward to hearing the comments today and to continuing the work to finally and fully resolve this land entitlement.

Senator WYDEN. Senator Murkowski, thank you. We'll work very closely with you. I know this legislation is important to you. We'll be following up.

[The prepared statement of Senator Murkowski follows:]

PREPARED STATEMENT OF HON. LISA MURKOWSKI, U.S. SENATOR FROM ALASKA

Mr. Chairman: Thank you for holding this hearing on S. 730, what most Alaskans call the Sealaska lands bill.

The Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act was first proposed by Alaska Congressman Don Young in 2007, and actually stems from talks between the Sealaska Native regional corporation, and the U.S. Forest Service that started many years earlier. The entire issue stems from legislation that Congress approved four decades ago and the many intervening events in the region.

In 1971, Congress approved the Alaska Native Claims Settlement Act (ANCSA) that provided Alaska Natives with 44 million acres of land and $962.5 million to settle all aboriginal land claims. One of the largest of those corporations in number of shareholders (about 20,000) was Southeast Alaska's Sealaska Corp. The corporation, because of preexisting land commitments (long-term pulp mill timber sale contracts and the 1968 settlement of the Tlingit-Haida land claim suit), however, received one of the smallest initial allocations of land, just over 290,000 acres. Under the Section 14(h) selection process, Sealaska was given the right to select more land in the region once all historic sites, allotments and municipal conveyances were finished statewide. That is because while Sealaska—with 22 percent of all Natives in the state in 1970—was the corporation with the largest percentage of Native residents, it gained the second smallest land entitlement above only the Aleut corporation's 70,000 acres—the Aleut corporation having just 3,250 shareholders. Doyon Inc. gained 12.5 million acres and Calista 6.5 million acres.

The disparity is shown in that Sealaska on population alone should have received 9.6 million acres of the forest, if the land in the region had been readily available for Native selection. Sealaska is still guaranteed to select between 64,000 and 85,000 additional acres in the Panhandle once the final audit of other land selections is finished by the Bureau of Land Management.

The Sealaska Corporation, by ANCSA amendment provisions, was limited to select that land from around 10 areas in Southeast: Yakutat, Hoonah, Angoon, Kake, Klawock, Craig, Hydaburg, Kasaan, Hollis and Ketchikan. The problem is that while there are 327,000 acres in the areas still available for selection, 44 percent of that represents saltwater and even more of that land constitutes village watersheds and lands with high conservation values and environmental concerns. Based on a 1976 amendment by Congress, Sealaska also does not have unfettered selection rights to those 327,000 acres because of state gubernatorial veto authority that can keep it from selecting any of the nearly 32,000 acres located in the Yakutat (Situk River) corridor. While Sealaska does have 112,000 acres of old-growth timber still available within those areas, about 61,000 of those acres are in old-growth reserve areas—areas considered unacceptable for development on environmental grounds and currently protected by the U.S. Forest Service—and much are located in the 277,000 acres of land currently designated "inventoried roadless" areas by the Forest Service. Significant acreage is also in municipal watersheds (notably around Craig), sharply reducing the availability of economic lands without environmental problems available for selection.

Estimates are that within the selection areas, Sealaska has 312.5 million board feet of commercial timber at current prices and another 39 million board feet available at far higher prices, but that all but 4.5 mmbf (one 1,600 acre tract on the Cleveland Peninsula sought for protection by the environmental community) are unacceptable for harvest on environmental grounds. Those grounds are that 32,000 acres (230 mmbf) are in the Situk River drainage, 4,600 acres (38 mmbf) are near Essowah Lake and Eek Lake on Dall Island and near Hydaburg, respectively, that are vital for commercial and subsistence fisheries, that 19,500 acres (40 mmbf) are in the Craig municipal watershed, that 2,500 acres (30 mmbf) are in important viewsheds/watersheds at Hoonah, important for the tourism industry, but also are economically marginal lands at present, and that 3,100 acres (9 mmbf) near Kake are equally economically marginal at present prices.

In an effort to help the Corporation select economically and environmentally acceptable land, Alaska Congressman Young in 2007 proposed the Southeast Alaska Native Land Entitlement Finalization Act. I introduced a slightly different bill in the Senate in 2008 and reintroduced, after extensive changes, in both the Senate and House, a further modified bill in spring 2009. The bill as then introduced and before a Senate hearing in October 2009, called for Sealaska to select the bulk of its lands from a roughly 79,000-acre selection pool, nine areas all located on Prince of Wales and nearby Kosciusko and Tuxekan Islands. The corporation would also receive up to 5,000 acres of Native "Futures" sites—locations elsewhere in the Tongass National Forest where only non-timber or non-mining-dependent businesses could be developed, from eco-tourism to ocean/ hydro power generation. And another 3,600 acres are allowed for sacred sites for cultural and historic preservation. There were 46 futures sites and 206 sacred sites proposed for transfer to the corporation, plus three customary trade and migration routes. Most all of the timber sites in that bill were located in areas already left open by the U.S. Forest Service for commercial timber development.

In return for the economic development lands, Sealaska would relinquish most all of its selection rights on the 327,000 acres of original lands, keeping only the Future sites located inside any of the original selection boxes.

Based on public comments following the October 2009 Senate hearing, comments made by the public at 12 town meetings held in Southeast in February and March 2010, more than 200 informational meetings held by Sealaska, and hundreds of letters and verbal comments, in late June 2010, I proposed significant revisions in the bill. Concerning timber lands, the revised bill proposes to remove all lands on northern Prince of Wales Island to meet the concerns of Port Protection and Point Baker residents. Harvesting on Koscuisko Island was reduced to meet the concerns of Edna Bay residents, and harvesting was reduced by 26 percent at Keete to meet the concerns of some over wildlife impacts. The bill proposed adding about 151,565 acres of lands into conservation areas (make the areas congressional designated Land Unit Designation IIs) to offset impacts from timber development in the southern Tongass National Forest. The bill also proposed to eliminate 17 of the then 46 formally proposed Futures sites, and included nearly two dozen amendments to protect continued public access among other purposes. It also deleted two provisions that raised concerns among outdoor user groups that the bill might somehow affect the definition of "Indian Country" in Alaska, and it deleted all potential sites in Glacier Bay National Park and Preserve at the request of the National Parks and Conservation Association. The February 2011 draft bill also made other proposed changes, including changes in the selection process for sacred sites, in access and

easement language, in the conservation areas and omitted 745 acres of timber development lands.

The current bill that I reintroduced in March 2011, (S. 730) has removed 206 additional acres to protect fishery anchorages at Halibut Harbor, at Cape Pole and north of Cape Pole on Koscuisko Island, removed one Future site and added other provisions detailed below.

ON ECONOMIC DEVELOPMENT LANDS

Specifically the current bill calls for Sealaska to give up rights to select lands in the Red Bay, Buster Creek and Labouchere Bay drainages on northern Prince of Wales. The reduction of those 22,402 acres protects several old-growth preserves, protects beach fringe, karst formations, subsistence hunting drainages and fishery areas of importance to the island's northern communities. The bill seeks to meet the economic concerns of Thorne Bay residents by maintaining the amount of public lands available for logging in the Thorne Bay ranger district, while it meets the need of Hydaburg residents by allowing some additional logging on the central portion of the island to protect existing Hydaburg jobs. It attempts to meet the concerns of Kake residents by maintaining the potential for economic development on northern Kuiu Island. The bill also addresses Koscuisko Islanders concerns by reducing the timber harvest for Sealaska on the island by 6,079 acres, removing old-growth closest to Edna Bay to protect subsistence hunting, removing lands on the southern island south of Cape Pole and along the western coast to protect fishermen anchorages, and on the northern island to protect Shipley Bay and Mount Francis old-growth timber and karst formations. The change protects the town's spring needed for potable water in dry weather, guarantees beach fringe for personal use firewood and should protect areas used by nearby Naukati residents.

The bill also removes two of five proposed harvest areas at Keete on the central Prince of Wales Island, protecting 3,070 acres at Mabel Bay and Kassa. In order to allow Sealaska to complete its entitlement of commercial forest land, the bill increases harvesting on Tuxekan Island, but reduces it by 745 acres by protecting lands near Karheen Lakes on the island's southwest side. It increases selections in areas south and west of Polk Inlet, at McKenzie Inlet to the east and in an area south of 12 Mile Arm, all on the central part of the Prince of Wales. The revised bill also calls for 13,000 plus acres of new land to be permitted for logging on northern Kuiu Island between Saginaw and Security Bays and allows selections to continue at Calder and North Election Creek. In all, the bill will allow Sealaska to select from 80,852 acres of development lands to fulfill their likely entitlement of about 72,000 acres of timber/development lands, when the final reserve land pool acreage estimates are finished.

In all of the timber lands, the bill bars Sealaska from any logging within generally 100 feet of major low-elevation fish streams (Class 1-A streams), imposing a standard similar to the Forest Service's current 100-foot buffer standard. The prohibition, following a precedent in ANCSA, however, runs for only five years to give sufficient time to the State of Alaska to consider whether any change is needed in the Alaska State Forest Practices Act standards governing timber operations on state lands which generally requires only a 66-foot buffer.

CONSERVATION AREAS

The bill, in return for these changes in timber lands, creates conservation areas to prevent logging on 151,565 acres on Kuiu, Koscuisko, Prince of Wales Island and on Sukkwan and Goat Islands. The bill specifically protects the 25,403-acre Sarkar Lakes area from logging on Prince of Wales, protects the Honker Divide canoe route along the Thorne River (15,586 acres), protects coho salmon habitat near Eek Lake near Hydaburg, and protects key areas on Goat and Sukkwan Islands (all totaling 34,644 acres). The bill protects 21,146 acres on the south shore of the Bay of Pillars on Kuiu Island and 36,703 acres in the Kushneahin Lake (Lovelace Creek) areas on southwest Kupreanof Island. The Sarkar Lakes, Honker Divide, Kushneahin Lake and Lovelace Creek areas all are highest rated for protection by fishermen and environmental groups in the State. The bill also protects 12,543 acres of karst formations on Prince of Wales and Koscuisko Islands—meaning the revised bill protects nearly 18,000 more acres of karst compared to the original legislation, and it impacts only a few hundred acres of high value karst in the various selection areas.

ON FUTURE SITES

The amended bill deletes a host of sites to satisfy local and fishery concerns: Lacy's Cove in Icy Straits, Crab Bay near Tenakee, Bock Bight near Petersburg, Big Bay south of Sitka, Young Bay near Juneau, False Island and Upper Tenakee Inlet

near Tenakee, Behm Narrows near Ketchikan, Tlevak Narrows/Turn Point, Port Refugio Village, Ridge Island Village, Tonowek Narrows/Arena Cove, and Cordova Bay near Prince of Wales Island, Port Houghton and Walter Island, Pybus Bay south of Juneau, and in the current bill, Dog Cove near Ketchikan. These deletions are in addition to previous ones at Kalinin Bay, Poison Bay, Ellis Point Bay, Halibut Harbor, Security Cove, and William Henry Bay.

The bill leaves only the remaining sites open for Sealaska's selection: Chicago Harbor near Yakutat, 258 acres; Khantaak Island Group near Yakutat, 1,054 acres; Redfield Lake near Yakutat, 276 acres; Cannon Beach near Yakutat, 280 acres; Upper River, south of Yakutat near the Situk, 81 acres; Ahrnklin River, south of Yakutat, 81 acres; Harlequin Lake, south of Yakutat, 128 acres; Dry Bay Village, north of Glacier Bay, 59 acres; Eleanor Island, north of Yakutat, 48 acres; Crab Island Village at Yakutat, 4 acres; Keku Island near North Kuiu Island, 806 acres; Coho Cove, southeast of Ketchikan, 29 acres; Turnabout Island Village, south of Admiralty Island, 74 acres.

The bill includes several tidal, small hydro and geothermal sites: South Inian Pass, Point Lavina side, 20 acres; South Inian Pass, Inian East, 20 acres; Josephine Lake, near Keete, 40 acres; Spring Creek Hot Springs on Cleveland Peninsula, 40 acres; and Pegmatite Mountain near Pelican, 40 acres. This site is unique, in that in response to pleas by Hoonah residents, Sealaska is being permitted to select the site, but will be barred from its development for 15 years to give Hoonah, Pelican and Tenakee time to develop alternative renewable energy power sources, potentially negating its reason for development, and for there to be time to determine permitted land uses in "roadless" areas of the forest. For transportation it includes: Whitestone Harbor, NE Chichagof Island near Hoonah, 315 acres. And for eco-tourism it includes: Burnett Inlet, South Etolin Island near Wrangell, 16 acres; Blake Channel near Petersburg, 23 acres; Rodman Bay, west of Angoon on Baranof Island, 31 acres; Sinitsin Cove, south of Sitka, 46 acres; Shrimp Bay, north of Ketchikan near Misty Fjords, 229 acres; Port Camden Village on Kuiu Island, 104 acres; Jackson Island Seasons Village on S. Sukkwan Island, 20 acres; Aston Island Village on north Dall Island, 29 acres; Seagull Creek Village, south of Hoonah, 47 acres; Holkam Bay Village, near entrance to Tracy Arm, 44 acres; and Saginaw Village on northern Kuiu Island, 89 acres. No commercial timber or mineral development is permitted by the bill in any Future site areas.

ON SACRED, TRADITIONAL, CULTURAL, EDUCATIONAL AND CEMETERY SITES

The revised bill deletes all legislatively-mandated presumptions of approval for any sacred sites, returning the selection process to exactly the nomination-approval process created by the 1971 claims settlement act regulations. The bill does alter the definition of such sites to allow selection and uses of cultural and educational sites. Another provision, however, restricts any use of the sacred sites to historic or educational purposes and requires that they be managed in the same way as surrounding lands. The bill also includes language to guarantee that the use limitations for the sites in the bill aren't permissive, but mandatory.

ACCESS

The bill always required Sealaska to provide the public access for subsistence and recreational hunting, fishing and hiking across its new economic development/timber lands, and to guarantee public access to all roads and trails within its selection areas. The revised bill, besides requiring public access on all existing (Section 17(b) and 14 (g) easements) also guarantees access across Future and migratory trails for any legal purpose. The bill provides for access for utility corridors on and across customary trade and migration routes. And the bill provides additional access to sacred sites, not following an existing trail or easement, when there is "no reasonable alternative" for access across the property without a new trail. It also clarifies 17(b) easements.

INDIAN COUNTRY

It removes the additional ability for Sealaska to gain grants from the National Historic Preservation Act and from the Tribal Forest Protection Act to manage its lands since the concern had been expressed that making a Native corporation eligible for such grants could impact the legal issues surrounding the definition of "Indian Country" in Alaska. Sealaska likely will continue to receive NHPA grants for educational purposes on its sacred and traditional sites, but not for maintenance of the sites. The definition removes any possibility of the bill making a change in how Indian Country and tribal sovereign rights are currently interpreted in the State.

GUIDES

The revised bill guarantees that existing tour/boat, bear, fish and other outdoor guiding services will receive an additional extension on their current Forest Service permits to conduct commercial activities on forest lands after Sealaska receives the lands—provided the operator meets all current Forest Service requirements. That will prevent commercial interests from facing the loss of business income for up to two decades.

CONVEYANCES

To address concerns that Sealaska's conveyances might interrupt the process for completing Alaska Statehood and ANCSA conveyances of other corporations, the bill requires that Sealaska largely obtain its timber land conveyances within two years, but subjects all of the Future and sacred sites to a "mutually agreeable" timetable for government conveyance between the corporation and the BLM.

Another amendment limits to 15 years the time for Sealaska to make its final sacred site selections to use up the remainder of the 3,600 acres of such selections it is promised by the bill, except it will retain selection rights for up to 10 percent of the lands in case of future archeological finds. That gives the corporation time for future work in the region to prove the location of currently unknown sites. The bill requires that only sites that meet the historic definition of sacred sites under ANCSA be conveyed to the corporation and that the size of the conveyances be the smallest possible to protect the historic nature of the sites.

Under the bill Sealaska will be selecting about 29,000 acres of second-growth timber, which, in conjunction with sacred and Futures sites, means that it will receive about 38,000 fewer acres of old-growth forest lands, than if it had selected all of its remaining lands from within the original ANCSA selection withdrawal "boxes." The bill protects all public road and trail easements (section 4(d)(1)(A) and 4(d)(1)(B) of the proposed Act. Sealaska will continue to share its timber revenues with all Alaska Natives, regardless of where they live, in accordance with the 7(i) revenue sharing provisions of ANCSA. Sealaska already has shared more than $315 million with other corporations under terms of the 7(i) requirements.

The final bill also adopts a number of suggestions to language made by Southeast groups to clarify terms in the text. Those changes include:

- Acceptance of a comment that a conservation system unit should be defined, and use of the group's suggestion of Section 102(4) of ANILCA as its meaning.
- Acceptance that the bill should define a LUD II and use of the definition in place when the most recent 14 LUD IIs were created by the Tongass Timber Reform Act in 1990.
- Correction of the references to sites with traditional and recreational use values, changing the titles to sites with traditional, recreational and renewable energy use value to provide clarity.
- Acceptance of a group's language to clarify that the right of Sealaska to regulate public access for various reasons specified in the language is limited to the right of Sealaska to limit access granted by the legislation above and beyond public access rights that would otherwise be granted under ANCSA.
- Removal of an incorrect reference to LUD I, since the term is no longer valid under the Forest Service policy expressed in the 2008 revision of the Tongass Land Management Plan.
- And acceptance of a change by a resident clarifying language on sacred site access in Section 4.

I have continued to work for passage of this legislation because I am absolutely convinced that it is in the interest of all Alaskans to see this bill approved to expedite the completion of land conveyances in the Panhandle.

First, almost no one in the region says that Sealaska should not promptly receive its final conveyances. Sealaska's more than 20,000 Native shareholders settled their aboriginal claims to their part of the more than 325 million acres of Alaska in 1971 based on the promise that the government would give them clear "fee-simple" title to lands that they could use to better the lives of Natives, while protecting their Native heritage. But many opponents of the legislation have argued that Sealaska should be forced to select within the 10 selection "boxes." The problem with that is that Congress has made that largely impossible. Under the 1976 amendments to the settlement act, if Sealaska presses to finalize its selection of 32,000 acres in the Yakutat area, and if the Governor of Alaska opposes the selection as past governors have said they would, then Sealaska will have to return to Congress to seek new selections to offset that denial of conveyance. That is especially the case after passage of the Alaska Land Conveyance Acceleration Act in 2004 that required all cor-

porations to finalize their selections three years ago, the corporation now having no means to replace the Yakutat selections should the prohibition against ownership along the Situk River—America's premium Steelhead fishing stream—be invoked.

Some have dismissed the importance of protecting acreages in the selection boxes on environmental grounds. But that ignores that the Forest Service has placed 63,484 of those acres into old-growth Reserves for wildlife habitat protection, perhaps to deal with Endangered Species Act concerns over the wolf and goshawk. And it ignores that the fishing community has listed two of the drainages inside the selection boxes among their top 100 priorities for fish drainage protection: the Situk River corridor and Bostwick on Gravina Island. Since it is literally impossible for Sealaska to select any acreage in the Tongass to fulfill its land settlement that will not impact any existing old-growth preserves, on net this bill is good for the environment, especially when the eight new fishery conservation areas created by the act are considered. If the bill passes Sealaska will be selecting timber lands in just five of the top drainages as listed by the Nature Conservancy and in four listed by Trout Unlimited, but six of the top 100 drainages will be protected permanently by the newly created conservation areas.

Some have complained that the bill breaks "precedence" and perhaps allows the other 11 Native regional corporations to seek revised land selections. But that ignores several facts. First, all of the other corporation chief executive officers have acknowledged that passage of this bill will not set a precedent for them, since none of them have faced the land selection problems of Sealaska. While the corporations still are awaiting tentative conveyance of more than 4 million acres, only Sealaska, which selected under Section 14, not Section 12 of ANCSA, is awaiting such a relatively large percentage of conveyance to complete its entitlement. While Sealaska may be waiting to gain nearly 30 percent of its final land conveyance, most every other corporation is awaiting conveyance of a tiny fraction of their lands, since the reserve conveyance pool represents a far smaller percentage of their overall selections. Secondly, land patterns in the Interior of the state in 1971 were not nearly as complex as found in Southeast (with the exception of the Anchorage Bowl) because there were no long-term timber sale contracts and few national parks, largely only Denali National Park, in place outside of Southeast, prior to passage of the Alaska National Interest Lands Conservation Act in 1980. The timber contracts substantially complicated Sealaska's task of selecting only 5,000-acre or larger tracts, while other corporations had less difficulty with the 5,000-acre requirement given the greater size of their selection areas.

Some have complained that the bill will complicate land management in the Tongass. But there is no reason that conveyance of any of the future, sacred or trail sites will do anything but lessen Forest Service enforcement responsibilities in the Tongass, just as the relinquishment of the 86 sacred sites that Sealaska has already taken title to based on the 1971 act has freed the Forest Service from responsibility for protecting cultural artifacts on those sites.

There have been complaints that conveyance of land to Sealaska will damage the public's access to the land. But that ignores that for the vast bulk of Sealaska's selections, all of the development/timber lands, that Sealaska as part of this legislation has accepted firm requirements to permit unfettered access for subsistence hunting and fishing and recreation—something not required of any other regional or village corporations by the 1971 act. Even on Future sites and sacred sites, the public has access on all pre-existing trails as required by the 17 (b) and 14(g) easement requirements of ANCSA. By the bill Sealaska must permit access to any lands where access might be "blocked" by its selections. While there have been complaints that Sealaska may try to close access unfairly—invoking the clause that allows it to close access should public safety be impacted by active logging operations—the bill likely will result in Sealaska not logging more than about 2,500 acres a year on average since the corporation is committed to putting these lands and its existing 189,000 acres of previously logged lands (only 81,000 acres of which have been clearcut) onto a sustainable management regime that will allow annual sustainable harvest in perpetuity, while protecting the forest resources through the use of modern best-management practices. That means that no more than one-hundredth of a percent of the Tongass could ever be closed at any given time to public access. While there were complaints that personal use firewood collections needed in villages such as Edna Bay, Point Baker and Port Protection could have been impacted, the timber boundaries have been rearranged to remove the prime collection areas for each village from possible Sealaska control.

Opponents have argued that the bill has allowed Sealaska to "cherrypick" the best timber tracts, or conversely that the corporation has selected the best second-growth tracts that could harm the Forest Service's ability to transition to a "young-growth" strategy in the rest of the forest. While the bill is allowing Sealaska to select from

about 44,000 acres of old-growth timber, that is far less than the 112,000 acres of old growth contained on the lands inside of their selection areas. More importantly, should Sealaska harvest all 44,000 acres, it will be harvesting just 3 percent of the 1.13 million acres of "old-growth" in the Tongass suitable for harvest under the most recent Tongass Land Management Plan (2008), preferred alternative 11. Under the existing TLMP, while 2.5 million acres of the forest are in the commercial timber base, only far less than 700,000 acres are ever scheduled to be impacted (before consideration of implementation of a roadless rule), while 10.8 million acres of the forest are already fully protected.

Concerning the fear that Sealaska might be taking too much second-growth, there are 428,972 acres of second growth of all age classes in the Tongass, logged since the start of World War II. Under current Forest Service land standards only 243,922 are "suitable"/available for timber harvest (57% of them), and of those only 65,518 acres are in suitable areas for harvest and older than 40 years, and thus closest to second-growth potential. Under this bill Sealaska will gain 28,576 acres of second growth and 17,536 acres of "suitable" second growth that is more than 40 years in age. That means Sealaska is receiving just 7 percent of all second-growth in the forest and just 9 percent of the suitable second-growth that is over 40 years of age. That means the Forest Service still has 91 percent of all of the suitable older second-growth to use for its transition to a young-growth strategy.

There have been a host of concerns that the ability of Sealaska to select Future sites will spoil the ability of Alaskans to access cherished recreation sites. For years one of the leading complaints of groups was that Sealaska was focusing on its timber operations. This bill was specifically crafted with the goal of allowing Sealaska to diversify and move into non-timber business ventures, such as eco-tourism or renewable energy development, to reduce logging pressures on the forest. But the ability of Alaskans to enjoy the forest should not be impacted by the bill. The bill requires Sealaska to permit some access across Future sites under terms of the 17(b) and 14(g) easements guaranteed by ANCSA. More importantly, Sealaska's selections outside of the original selection box areas are relatively small in size. While more than 36 such sites have been deleted from the bill in response to public concerns, of the 30 that remain only three at Whitestone Harbor, Shrimp Bay and Port Houghton Village are larger than 100 acres in size. All others are small enough not to impact public access to any of the recreational features that Southeasterners have grown to love, and there are seldom more than one site near any population center in the region. Access for fishing up creeks should be protected.

Others have expressed concerns that the bill will harm the local economies of smaller communities, generally on Prince of Wales Island and the one town on Koscuisko Island. I truly do not believe that to be the case. Admittedly the original version of the bill introduced in the Senate in 2008 and 2009 did call for Sealaska to take private ownership of more than 22,000 acres of timber on northern Prince of Wales Island. The proposed logging in Lab Bay, Buster Creek and Red Bay might have affected subsistence hunting and personal use firewood collection that could have affected Point Baker and Port Protection residents. To meet the concerns of those small communities the bill was revised last year to leave those tracts in Forest Service control. With those lands still open to Forest Service commercial logging efforts, the bill should have little impact on Forest Service timber sale preparation jobs based in the Thorne Bay ranger district. While there were concerns about the bill's impacts on the economy of Thorne Bay, and it taking timber away from Forest Service sales to the Viking mill at Klawock, the current legislation should have minimal impacts on the community and numerous small saw operations located there and no impacts on Klawock's mill, in that many of the Sealaska selection areas are now located to the south in the boundaries of the Craig ranger district.

Clearly there have been concerns about the bill voiced by residents of Edna Bay, the tiny community on east Koscuisko Island that grew out of its history as a logging camp. While most of the lands contained in the bill are classified as LUD III's and open to logging by the U.S. Forest Service and its timber program, at least under the terms of the 2008 Tongass Land Management Plan, Edna Bay residents feel that it far more likely that the lands will be harvested by Sealaska than by federal timber sale operators. To meet their concerns this bill dropped more than 6,000 acres of potential selections by Sealaska, including several thousand closest to the village's western and northern boundary. While the bill does allow Sealaska to potentially select just over 19,000 acres on the island, it only includes less than 7,500 acres of old growth timber. The bill was adjusted to protect anchorages at Shipley Bay, Halibut Harbor and at Cape Pole and the trolling grounds at Hardscrabble and Trout Creek used by Edna Bay fishermen, and the bill dropped lands north and east of the community to protect subsistence hunting areas used by residents and the location of a spring needed to provide potable water to the village's

residents during dry periods. The bill also provides for an alternate log transfer facility north of Edna Bay at Van Sant Cove as alternatives to the log transfer facility in Edna Bay reserved for future use by the Forest Service. The bill affords Sealaska that same use and use of the roads to access that facility as well. It is hard to understand how timber operations by Sealaska could destroy the village's way of life given that the community was the result of logging that occurred on south end of the island in 1945, 46, 55, 56, 60, 62, 63, 70, 73, 75, 76, 77, 78, and as recently as 1997.

Some have argued that the bill should require primary manufacturing of wood, rather than permit "round-log" export of timber, as allowed from all private lands in the state. Given current timber market conditions, some round-log export, is necessary for sales to be economic from Alaska. And Sealaska has shown that the amount of total timber jobs are nearly identical between an export operation and a primary manufacturing industry format—the only difference being the location of jobs, and perhaps how many jobs are held by Alaska Natives.

Now the bill has triggered new debate over the wisdom in 1971 of Congress giving the Native corporations control over sacred sites, compared to allowing tribes to control those lands. That decision was made by Congress, apparently out of the believe that since the claims act largely extinguished Indian Country in Alaska that the corporations would have the greater economic ability to care for the sites than tribes—especially given that the bill was specifically aimed at lessening reservation status for Alaska Natives. This bill is simply trying to fulfill the promise and spirit of the 1971 act. While it is always possible that Alaskans will reach a new consensus on Native land ownership and tribal authority and resources in the future, until that crystallizes, it is only right that Sealaska have the ability that the other 11 state Native corporations have had to select sacred sites within their overall land conveyance allocations. The corporation has offered to jointly manage such sites with all local tribes through memorandums of understanding, but for Congress to mandate such an action would violate the original aboriginal land settlement terms where Native corporations received their lands "fee-simple" without additional federal strings being attached. Given that Alaskans normally do not like federal regulation, I have tried to follow the principles of the original claims act in the drafting of this bill.

I have, however, required Sealaska to permit far greater public access than required of all other Native regional and village corporations on the new lands they will claim, have required them to keep all roads and trails open for public access (except when safety is a legal consideration during logging operations) and have followed a precedent from ANCSA, requiring Sealaska to observe an 100-foot buffer against logging along major salmon streams for five years. Admittedly fishermen are concerned that a five-year limitation is contrary to ongoing effectiveness monitoring nearly continuously since 1992, and nearly 20 years of data that shows that the Alaska Forest Resources and Protection Act is effective in protecting anadromous fish habitat and is a violation of their freedom to utilize their lands promised in the claims act and another sign of the federal government imposing patronizing requirements. My hope is that the five-year prohibition will give the public time to encourage the state's Board of Forestry to review state standards and change those standards, if any new forest research shows that changes are needed to protect the environment and fish habitat. Clearly there is still unhappiness over past logging practices in Southeast Alaska, many of the problems occurring more than 20 years ago, that continue to color perceptions over the ability of timber harvesting to coexist without damage to fishery resources.

The bill, in my view, is required to allow Sealaska shareholders to gain access to their lands in a timely manner. It is also vital for the survival of a diversified forest products industry in Southeast, which is vital for continuation of a diversified economy in the Panhandle. Right now, Sealaska's existing timber operations are supporting more than 40 percent of the support industries and infrastructure needed by the rest of the private timber industry in the region, and some of the non-timber industry. If Sealaska is forced to shutter its operations over the next two years, there may not be sufficient economies of scale left to permit Viking Lumber at Klawock or Icy Straits Timber at Hoonah to be able to afford to continue operations given their need for support services, from loggers and equipment operators and repair firms to transportation and road construction workers.

Clearly the current timber industry is a shadow of its former self. Where the industry once fueled 3,500 direct jobs, it now fuels a few hundred from federal lands. But Sealaska's presence is vital not only because it provides more than 360 direct jobs with a payroll of more than $15 million from it operations—nearly 500 jobs and $21 million in payroll when indirect employment is added—but because it funds the very infrastructure that will be vital for the Forest Service to attempt to transition

to a series of habitat restoration and young-growth timber sales in the future. Federal sales will be cost-effective only if Sealaska is present to share road and support facility costs—and the bill requires Sealaska to provide access to all log transfer facilities and roads that it acquires as a result of the legislation.

Some have argued that the bill "gives away" the roads and the timber infrastructure that federal taxpayers have paid to install. But given the provisions for road easements in the bill and the current Forest Service plans to cut timber harvests in the region from the up to 267 mmbf a year called for the Tongass Land Management Plan in 2008 to a rumored level of perhaps just 50 mmbf, it is far more likely that the roads will be better maintained for public access in private/state hands than federal hands, especially given the proposed road closure plans, where the Forest Service has proposed to close and decommission hundreds of miles of logging roads in Southeast Alaska. In all probability the State of Alaska will be more involved in maintaining road standards in the Tongass regardless of the bill's conveyances.

And recently complaints have surfaced that renewable energy sites: hydroelectric, geothermal or marine hydrokinetic sites should not be transferred to private hands from federal ownership. While it is true that holders of such sites on federal lands do have to pay a small lease payment to the federal treasury, in general, it is more likely that utilities and renewable energy developers will be able to raise capital to build non-carbon emitting geothermal, hydroelectric and ocean energy power sites if the lands are in private ownership than on leased federal property, where development may require lengthy permitting and approval processes. But such a transfer to Sealaska does not lessen the environmental standards that such projects will still have to meet under Federal Energy Regulatory Commission requirements.

As I have often said the Sealaska bill has been controversial in the region since every acre of the Tongass is precious to someone. But Sealaska by law has the right to select additional acreage in the Tongass for the benefit of its shareholders. And this bill completes the settlement act conveyance process that has had major benefits for all Alaskans. By settlement of aboriginal land claims, ANCSA paved the way to construction of the Trans-Alaska Oil Pipeline and the roughly $160 billion that the State of Alaska has received in petroleum revenues since 1977. According to the Institute for Social and Economic Research, the average Alaska family of four between the Alaska Permanent Fund Dividend, wage boosts and public spending fueled by petroleum, gains about $50,000 in added revenues yearly. None of that would have occurred without the claims act having settled aboriginal land claims. It is ironic that without passage of this legislation, the Trans Alaska Pipeline could run out of oil before completion of Sealaska's ANCSA land entitlement.

It is long past time that Sealaska shareholders get the lands they were promised nearly 40 years ago. I am supporting this bill as a way to do that in the least environmentally and socially damaging way and in the way to best protect the region's economy and the lifestyle of all Alaskans who live, work and play in the Tongass National Forest.

If this bill doesn't pass—and soon—we, this Congress and this Administration, will have set up a system that will impoverish Southeast Alaska Natives and the region's economy as a whole for a long time. Perhaps with the best of intentions: of trying to speed the diversification of the Panhandle's economy, or of trying to protect our artificially created old-growth preserves—when 96 percent of the forest already is fully protected—we will have harmed the chances for renewable energy development, or of a shift to a small-diameter second-growth timber industry, since Sealaska is clearly in the best position to lead such a dream to reality.

And if this bill doesn't pass we definitely will have proven, once more, that this government should not be trusted to do what is right by Native peoples. That is why I have stuck with this bill, and why I continue to work for and urge its speedy passage.

Senator WYDEN. Senator Barrasso, welcome.

STATEMENT OF HON. JOHN BARRASSO, U.S. SENATOR FROM WYOMING

Senator BARRASSO. Thank you very much, Mr. Chairman.

Thank you for scheduling this hearing today. One of the bills on the agenda, specifically S. 375, the Good Neighbor Forestry Act, is legislation that we've considered during the last three sessions of Congress. It's a bipartisan bill, a common sense bill, bipartisan

that our co-sponsors are Senator Tim Johnson, as well as Orrin Hatch, Mike Enzi, Mike Lee and John Thune.

S. 375 authorizes the Secretary of Agriculture and the Secretary of Interior to enter into cooperative agreements with State foresters. The bill authorizes State foresters to provide certain forest, rangeland and watershed restoration and protection services. They do it in collaboration with Federal agencies. I call it the Good Neighbor Forestry Act because it brings together State and Federal agencies to work cooperatively.

We need to work together as neighbors to address land management challenges. There are clearly challenges out there. Wyoming forests, like those of all Western States are facing unprecedented challenges. These challenges such as preventing wildfires, removing invasive species, improving watersheds and conserving habitat require cooperation across boundary lines.

The bill is very simple. The Good Neighbor Forestry Act allows the Forest Service or BLM to work with Western States to complete work that crosses ownership boundaries. This bill will provide an on the ground management tool that our Federal, State and private lands desperately need. Good Neighbor authority has been enjoyed by the States of Colorado and Utah for most of the decade and it works.

Good Neighbor projects have worked well in those States. They've met environmental goals. They've provided benefits to the local communities.

I'll just give you a brief example, Mr. Chairman. Leafy Spurge has overtaken an entire drainage. The State owns the land on one side of the creek. The Forest Service owns land on the other side. We can't effectively manage this invasive weed unless we cooperatively treat the whole landscape.

If the State clears out all the Spurge on its side of the creek 1 year, but the Forest Service doesn't address the problem that same year. Then the Leafy Spurge continues to spread. So the State's work and money and resources will have gone to waste. A year or two later then the Spurge will have reclaimed the State land and many more acres further down the mountain drainage, causing more and more problems.

So we need to have a coordinated effort. The problem can be solved with this basic Good Neighbor authority. The Forest Service could prepare a cooperative agreement with the State for invasive species control. They should.

The State could then send workers to clear the entire drainage area of Spurge. Good Neighbor authority allows us to effectively address the problem and use management funds efficiently. Both the State and Federal land management goals are met. It's a win/win situation.

And I'm sure we're going to hear some concerns, though, that this Good Neighbor authority could run astray. I believe the concerns are overblown. This Good Neighbor authority simply provides Federal agencies with the ability to enter into cooperative agreements.

It doesn't cede decisionmaking authorities to the State. S. 375 does nothing more, nothing less than the authority already in place

in Utah as well as in Colorado. It would simply expand the use of that authority to other States west of the 100th meridian.

You know, last Congress, Mr. Harris Sherman, USDA Undersecretary for Natural Resources and Environment, was very supportive of this authority in his testimony. In responding to a question for the record he wrote, "I further believe national Good Neighbor authority is warranted to help address forest health issues, that challenge Eastern forests across diverse land ownerships." He went on to say, "In these times of limited resources, it's important to leverage work force and technical capacities all within existing environmental laws and regulations." That's the end of the quote.

So I'm pleased to see the USDA's support. I appreciate Secretary of Interior Salazar's leadership in supporting Good Neighbor authority. The Administration has the right idea here. We're eager to work with them.

I'd like to welcome each of the witnesses. I look forward to the questions. Thank you very much, Mr. Chairman.

Senator WYDEN. I thank my colleague. I know a lot of time has been put in on this Good Neighbor forestry issue. We'll continue to work with you and see what we can do to get this worked out.

We want to welcome both of our colleagues, Senator Tester, Senator Begich. I understand both of you have an interest in perhaps sitting with the panel after you're done or at some point in the afternoon. You're welcome to do that.

I guess Senator Tester, by virtue of seniority gets to go first. Although Senator Begich may be under the gun in terms of his schedule. Senator Tester, you're being a gracious soul, would it be acceptable to you to let Senator Begich go first?

Senator Begich, welcome. We'll make your prepared remarks part of the record. You go forth as you choose.

STATEMENT OF HON. MARK BEGICH, U.S. SENATOR FROM ALASKA

Senator BEGICH. Thank you very much. Thank you, Senator Tester, for allowing me to go first. Thank you, Chairman Wyden, Ranking Member Barrasso and my colleague Senator Murkowski.

I appreciate the opportunity to address the committee today on a bill important to Alaska. As you mentioned I have a committee I have to chair at three o'clock in the Capitol, so I will be brief.

I'm a co-sponsor of S. 730, the Sealaska Lands Entitlement Act and support it and its speedy passage. Nearly 2 years ago I appeared before you on behalf on an earlier version of the bill. As you likely know, Sealaska Corporation, the national—the native regional corporation for the native people of Southeast Alaska has not completed its land claims. We made a promise, as mentioned by my colleague, more than 40 years ago to ensure that the Alaska Native Land Claims Act and Settlement Act and we are far past due in keeping that promise.

The bill before you is an attempt by Sealaska to rebalance their remaining land selections. It attempts to better balance their responsibility as stewards of their lands with their economic responsibility to shareholders and the communities of Southeast, where their shareholders live. Over the past 2 years Sealaska has done

much of what I hope they would. They have engaged Federal agencies, interest groups and local communities.

I also want to recognize the hard work that Senator Murkowski and her staff have put into this bill. They have met with Alaskans all over Southeast to hear from folks on all sides of the bill. The bill before you today, S. 730, reflects a significant compromise and accommodation of those interests.

I will leave it to those with more time to catalog the list of those changes as Senator Murkowski did in her statement. I have no doubt you will hear testimony today suggesting it is not perfect. It may not be. But it does reflect Sealaska's two solid years of listening and working to make it better.

I hope you will respect Sealaska's efforts to resolve these outstanding issues of land entitlements. Likewise, as the Forest Service reshapes its management of the Tongass National Forest, our Nation's largest at 17 million acres, the size of West Virginia. I hope you will hear today the same level of interest and compromise and working through their differences.

This region of Southeast Alaska faces enormous challenges. Again, as mentioned by my colleagues, 16 percent unemployment, little infrastructure and sky high energy costs. If we are serious about the region's economy that effort has to come from both the Forest Service, which owns most of the land and Sealaska, the largest private landowner, working together. This legislation can be an important piece to reinvigorate the Southeast Alaska economy. It can aid in the transition of an important industry and the management of a forest that serves as the backbone for all the drivers of our Southeast economy, wood products, tourism, commercial and sport fishing, mining and subsistence.

Again, Mr. Chairman, I want to thank you for this opportunity to give you brief comments on my support for the legislation in the hope that the subcommittee and the committee in total will move the legislation in a speedy manner. Again, thank you for allowing the record, my statement to be also in the record.

Senator WYDEN. Senator Begich, thank you. A very helpful statement. I don't have any questions. Colleagues, any questions?

We'll excuse you then at this time.

Senator BEGICH. OK, thank you, Mr. Chairman.

Senator WYDEN. Alright. We're joined by the chairman of the Senate Finance Committee. We are always glad to have the chairman of the Senate Finance Committee here.

I would just point out to colleagues, one of the most important measures that started in this committee was the County Payments legislation. That law simply would not be on the books today if it wasn't for the extraordinarily helpful efforts of Chairman Baucus. So with it coming up again, he knows we're going to be having another mountain to climb. I just want to appreciate all his help and he is always welcome in this subcommittee.

Chairman Baucus, please proceed as you'd like.

STATEMENT OF HON. MAX BAUCUS, U.S. SENATOR FROM MONTANA

Senator BAUCUS. Thank you very much, Mr. Chairman. Thank you for that effort, frankly that was a joint Western States effort,

helping to get, explain, convince, some of our colleagues in other parts of the country the importance of that legislation. Thank you for your hard work to help make that happen.

Mr. Chairman, I'm here to speak on behalf of S. 233. What's that?

S. 233 is the North Fork Watershed Protection Act of 2011. I'm very pleased to be joined here by my good friend, Senator Tester, who is also a co-sponsor in this legislation with me. I might diverge slightly and say, I also strongly support the bill that Senator Tester's going to be testifying on later today. It's good for Montana, especially it's good for our State's economy.

Jon has worked very hard on this legislation, spent a lot of time all around Montana talking to all the groups. It's a good step forward. I hope this subcommittee can look favorably upon that bill because it's good for Montana and for the country.

I might begin on this bill, S. 233, by explaining that when the Glacier National Park was created back in 1910, Americans enshrined an incredible natural resource in Montana and a little bit up into Canada. I mean, it is incredible. Frankly, a lot of people know about Yosemite. They know about Yellowstone. They don't know a lot about Glacier.

I think Glacier is really the great treasure. In fact our State, we call ourselves the Treasure State. It's always meant more that gold and silver and forest products. When the Waterton National Glacier National Peace Park was created in 1932 Canadians and Americans alike endorsed the further principle of partnering to protect our outdoor heritage.

We are so lucky to be Americans. Other countries don't do this. We have our national parks. We have our National Forest Service. It is BLM lands and public lands which we protect and manage in a way that makes most sense for our people. So we're incredibly lucky to have these resources.

It's important, especially for our kids and for our grandkids to be able to share all that too, in the same way that we do. Properly, some of it has to be managed in a way to produce. But some of it is managed in a way just to protect for future generations.

Like many pioneering conservation efforts, all these initial actions, that is, Glacier Park, were not the end of the story. In the many decades since, this principle of endorsing the outdoors has been tested. But it's been reaffirmed, but risks remain. Today it falls to us once more to protect the lands around Glacier National Park.

In this case I'm talking about the Western border. It's called the North Fork of the Flathead River. It flows down from Canada, one of the three forks into the Flathead Lake. This North Fork as well as the Middle Fork and South Fork are just as special.

You can't believe the number of people in Montana and around the country, especially in the summer come to raft and fish and hike, ride horseback in these tributaries and also into the Flathead, main Flathead River and into Flathead Lake. So it falls upon us once again to make sure that this is properly protected. The million acres drained by the North Fork of the Flathead River are simply magnificent.

It's very hard for me, Mr. Chairman and Ranking Member Murkowski, to really explain just how beautiful and special this place is. We all know a lot of rivers. We see a lot of rivers. But, you know, there are rivers and there are rivers. This is really a special river. You have to almost be there to understand what I'm trying to convey.

I sometimes float it myself and I'm amazed. It's a fast flowing river. It reminds me a little bit of, Senator Murkowski, of the Yukon.

Once I was on the Yukon. Just stunned by how fast flowing it was. How cold and clear and deep it was. It's an amazing river. The North Fork of the Flathead is very, very similar.

Snow and ice of the Northwest Glacier National Park melt into it. The watershed, to this day, remains the way it was centuries ago. Montanans and others from around the country continually have enjoyed hunting and fishing and just recreating in the area.

Back in 1975 I was a green behind the ears, mere Member of Congress. I introduced a bill to designate the Flathead River as a wild and scenic river. That's kind of where I cut my teeth on the North Fork. There were some folks, to be honest, landowners, who didn't like that designation, wild and scenic.

I guarantee you, dollars to donuts, today they're very happy we produced that legislation because it has helped preserve that river. I began along that year to protect the North Fork and the larger watershed of the Flathead that I think it's among the most protected on the continent. No energy development has reached production stages in either the U.S. or in Canada along this watershed. It just hasn't happened.

And despite that tradition of conservation the North Fork has remained vulnerable, especially as coal prices have been high. It's across the border up into Canada. The temptation to mine all that coal which was mined, I might say, years ago. As recently as 2004, there's roadwork in exploration for coal deposits in headwaters of the watershed in British Columbia.

But today we have a rare opportunity. Based on consensus there's agreement here. All groups favor this. This is not a controversial piece of legislation, the consensus about the wisdom of keeping the North Fork pristine.

The challenge of doing so is twofold.

First, meaningful conservation requires parallel and commiserate actions by Canada. Canada has done that. They're protecting their portion up in British Columbia.

The Premier made a throne statement. That just means it's pretty significant. That means it's serious. It means it's like legislation, not just administrative action to be repealed. This is, in effect, legislation, to preserve their portion of the river that is in British Columbia.

Second, the complex history of Federal management requires a lot of independent steps. They've all been taken. I've flown up there, been up there, our Governor, to Vancouver, State, province.

I've talked to Secretary Clinton about this. They've acted. Secretary Salazar, all the relevant Federal and State and provincial organizations have come together in agreement. In fact an MOU was signed between British Columbia and Montana to protect their

side which is parallel with the Federal efforts in Canada, the United States to protect our side.

Part of this really is working with the oil and gas industry. Early this year oil and gas—and last year too, oil and gas companies voluntarily relinquished 4 out of 5 leased acres in the U.S. section of the watershed. That is, they just volunteered without compensation. They volunteered.

It's important because we are then showing the Canadians, we, on our side of the border are protecting. So we're ask you on the Canadian side to protect. These are leases that energy companies would never utilize. They leased the land up a long time ago. But they knew there would be no production. That's why they're relinquished.

I commend a couple of companies who took the lead. Conoco Phillips, Chevron are two which owned—had most of the lease acreage. There are a couple minor companies and individuals left who haven't given up their leases yet. But for the most part I think it's 80 percent of the leased acreage has been voluntarily relinquished on the North Fork. I commend them.

Montanans of all stripes, from business owners, local Chamber of Commerce, birdwatchers, hunters, anglers, all have endorsed this bill. Given often contentious politics of public lands, particularly the private endorsement of the bill by businesses like Pole Bridge Mercantile on the historic KM Building in Kalispell and energy companies, I mentioned Conoco Phillips and Chevron, who could otherwise stand to benefit from selling fossil fuels in the North Fork. The fact is this bill is not controversial.

It is, to repeat, just all group supported. I don't know of a single person or a single group that opposes it. Why? Because this area is just so special. I mean, it's a no brainer.

So we're trying to get this legislation passed in conjunction with the private actions just to show Canada and others that by withdrawing, by prohibiting future leases on the Federal land it does not stop energy involvement. There will be no energy development. No company in its right mind would want to develop along the North Fork of the Flathead whether it's private acreage or whether it's leased in public lands. It would just be opposed so much. It would just be such an outrage.

A small anecdote. I was speaking in Montana a couple years ago about environmental efforts. But taking just the other side of the Rocky Mountains over in the East, we call it the Eastern Front. I was speaking at a location near Kalispell. A lot of people in Montana there, a lot of out of staters were there. I talked about the Eastern Front. Nobody seemed to care.

I said, by the way, we're also going to protect the North Fork River. Just an eruption of applause. People so want to protect the North Fork of the Flathead River. It's that important to them.

So, Mr. Chairman, the ranking member, thank you so much. This is just one special thing that we could do for ourselves, more importantly for our kids and grandkids. I just urge favorable treatment. I thank you.

[The prepared statement of Senator Baucus follows:]

PREPARED STATEMENT OF HON. MAX BAUCUS, U.S. SENATOR FROM MONTANA

Thank you, Chairman Wyden, for the opportunity to testify in support of S. 233, the North Fork Watershed Protection Act of 2011. I am pleased to be joined here by my good friend Senator Jon Tester, who is co-sponsoring this important bill with me.

When Glacier National Park was created in 1910, Americans enshrined an incredible natural treasure in Montana. The "Treasure State" has always meant much more than mere gold or silver. When the Waterton-Glacier International Peace Park was created in 1932, Canadians and Americans alike endorsed the further principal of partnering to protect our outdoor heritage. Yet like so many pioneering conservation efforts, these initial actions were not the end of the story. In the many decades since, this endorsement has been tested often—and re-affirmed each time. But risks remain. Today, it falls to us once more to protect the lands around Glacier National Park. The North Fork Watershed Protection Act of 2011 is the next and necessary step.

The million acres drained by the North Fork of the Flathead River are simply a magnificent place. The snow and ice of northwest Glacier National Park melt into the North Fork. The watershed to this day remains the way it was centuries ago. And Montanans have always enjoyed hiking, rafting, fishing, and hunting in it.

In 1975, I introduced the bill to designate the Flathead River as a Wild and Scenic River—it took one year, and I began a lifelong effort to protect the North Fork. The larger watershed of the Flathead River system is among the most protected on the continent. No energy development project has reached production stages in either the U.S. or Canadian portions of the watershed. Despite that tradition of conservation, the North Fork in particular has remained vulnerable at key points to energy development. As recently as 2004, roadwork and exploration for coal deposits was undertaken in the headwaters of the watershed in British Columbia.

Today, we have a rare opportunity to act based on a consensus about the wisdom of keeping the North Fork pristine. The challenge of doing so is two-fold: first, meaningful conservation requires parallel and commensurate actions by Canada; second, the complex history of federal management requires several independent steps to protect the watershed.

We are at historic moment on both fronts. First: as of last year, at both the state-provincial level and the national level, Americans and Canadians have committed to reciprocal conservation of the North Fork. This level of international agreement is in keeping with the grand history of cooperation in Glacier and Waterton. Second: as of early this year, oil and gas companies have voluntarily relinquished four out of five leased acres in the U.S. section of the watershed. I commend these companies, whose testimony is in the record, for leading the way. It is time for Congress to follow suit and withdraw these lands from future leasing for all energy development.

Montanans of all stripes—business owners, birdwatchers, hunters, anglers, and others—have endorsed this bill. Given the often contentious politics of public lands, I note with particular pride the endorsement of this bill by local businesses and chambers of commerce, including the Polebridge Mercantile and the Historic KM Building in Kalispell, as well as energy companies like ConocoPhillips and Chevron who could otherwise stand to benefit from selling the fossil fuels in the North Fork. Some places are simply too special.

On a continent rich in natural resources—whose extraction affords us a high quality of life—Americans have retained the wisdom of self-restraint. The North Fork of the Flathead River is the beneficiary of that restraint. All Americans—we in this room as much as anyone—are the beneficiaries of that wisdom. We are rich in more than just resources. The North Fork is a testament to that. It is a treasured landscape, and this bill would keep it that way.

Senator WYDEN. Chairman Baucus, I strongly support your legislation. When we had our markup previously I spoke out in favor of it strongly. I will continue to do so. You have convinced me that the Glacier and the North Fork are true jewels of the West. We're going to get it done this time.

As a member of your committee, I know how busy you are this time of year. What's your pleasure? I don't know if colleagues have questions.

Senator BAUCUS. Oh, I'm here. I'm at your disposal, Mr. Chairman.

Senator WYDEN. Whatever is your pleasure? We can hear from Senator Tester. I don't have any questions. I am strongly in support of your legislation. We're going to pass it.

Would you like to be part of the discussion with Senator Tester on his measure? What's your pleasure?

Senator BAUCUS. This is Senator Tester's bill. I'll let Senator Tester handle his bill. I mentioned I strongly support it.

Senator WYDEN. OK.

Senator BAUCUS. I don't think any Senator has worked as hard for good solid balanced legislation as he has.

Senator WYDEN. Very good.

Senator BAUCUS. Thank you.

Senator WYDEN. Do colleagues have questions for Chairman Baucus?

Alright, Mr. Chairman, thank you. Thank you, again. We're going to get your bill out of this committee and get it on the President's desk.

Senator BAUCUS. But if any of you have any individual questions you want to ask me. I mentioned Senator, we talked privately about this a little bit. If you have any follow up questions, you know.

Senator MURKOWSKI. OK.

Senator BAUCUS. I'm available. Thank you.

Senator WYDEN. Alright. Thank you, Chairman Baucus.

Senator BAUCUS. Thank you.

Senator WYDEN. Senator Tester, welcome.

Before you begin your presentation I just want you to know how much I appreciate your effort to try to bring everybody in Montana together on this issue. I think we are very much kindred spirits. We've talked about this often because I think Montana and Oregon are very much linked in our efforts to really help forge a new path with respect to forestry, you know, in the West.

In our States, people just cannot afford to wait any longer. I mean, you have so many of these overstocked stands. If you don't go in there and send them out they're just magnets for fire.

I want you to know how committed I am to working with you as you try to fine tune the legislation, work with the Obama administration. Because I think Oregon and Montana have an opportunity to pave a path to new forestry in the West. Forestry that is going to help show that a healthy forest equals a healthy economy that works for the mills that we have left that we want to have a promising future in areas like biomass.

It also helps us protect our treasures. So please proceed as you like. Know that I am very much watching, you know, your effort which resembles what we went through on the Eastside of Oregon where for the first time we had timber industry and environmental folks standing side by side.

So please proceed. We'll be working closely with you.

STATEMENT OF HON. JON TESTER, U.S. SENATOR FROM MONTANA

Senator TESTER. Thank you, Chairman Wyden. Chairman Wyden and members of the committee, I very much appreciate the honor to be able to present the Forest Jobs and Recreation Act with you

today under the full scrutiny of Congress. Who knows, Chairman Wyden, maybe we can get even more mills established if we start thinking about how we can manage our forests in a way that's more sustainable and better for our people.

I would like to welcome, first of all Mr. Sherm Anderson and Mr. Wally Congdon, to the Senate, as well as Brian Sibert, who is the Director of the Montana Wilderness Association. Brian traveled here to stand by one of his partners in this effort, Sherm Anderson. I'd also like to welcome Sherm's wife and business partner, Bonnie. I want to thank you all for making the journey.

I also want to thank Mr. Harris Sherman for coming here today to testify on behalf of the Administration. Again, I don't want to preempt his testimony. But I want to thank him and Secretary Vilsack for their support of this jobs bill. I'd like to request consent to enter a letter* affirming their support from October 11, 2010, into the record.

Senator WYDEN. Without objection, so ordered.

Senator TESTER. Above all I would like to thank my friend, Senator Max Baucus, for being here earlier and his support of this bill. Senator Baucus knows firsthand the long history of the timber battles in Montana. He has seen it all. I'm glad to have him here today to talk about his support of this bill.

The Forest Jobs and Recreation Act is an incredibly popular bill getting more supporters by the day. Just in the last month we've had the Chamber of Commerce of Missoula and the Montana AFL–CIO sign on as supporters.

This bill was brought to me by Montanans who were tired of fighting over forest management, recreation and wilderness designation. For decades these folks, the mill owners, the loggers, the conservationist and the outdoorsmen, have fought one another. They fought and no one ever won. In fact, everyone lost.

So a few years ago a few brave Montanans decided to sit at the same table. Anyone willing to negotiate was welcome. Working together they literally and figuratively mapped their common ground. I am very, very proud to support their effort.

This is not a bill made by Democrats or Republicans. This is a bill made by Democrats and Republicans. It is product of three different collaborative efforts.

One from the Northwest corner of the State in the Yaak.

One from the Seeley District of the Lolo Forest.

The other from the Beaverhead-Deerlodge Forest.

These groups brought me their ideas. I talked to a lot of Montanans to help shape those ideas. In the summer of 2009 I introduced the Forest Jobs and Recreation Act.

I said then that the bill was in its beginning phase. That I wanted to hear from people about the bill and incorporate their ideas. I heard feedback from thousands of Montanans. I received thousands of letters, met for hours and hours with the Forest Service staff and worked hard with the members of the staff of this committee.

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*See Appendix II.

Secretary Vilsack was kind enough to visit Montana to discuss the bill. He toured our mills and our forests. He held a crowded community meeting.

Mr. Chairman, when you add all this up, I can see that no bill from Montana has ever enjoyed the transparency of this effort. It hasn't always been an easy process. But the bill before this committee today is stronger as a result of all that work. I'm proud of the bill that we shaped by working together.

Let me quickly recap what this bill does.

It will put people to work in the woods creating jobs for the timber and restoration industry.

It will make our beetle killed forests healthier lowering the risk of catastrophic wildfire.

It will help protect our communities from catastrophic wildfires.

It will improve trout and big game habitat.

It will secure places for people and our kids and grandkids to enjoy the land that they own.

The Forestry and Restoration components of the bill are pretty straight forward. They reflect hours and hours of thoughtful input that I have received since introducing this bill. The Forest Service will kick off one large watershed project per year using authorities and processes outlined in the Healthy Forest Restoration Act. The agency will work with collaborative groups to assess what is needed, what culverts or roads need fixing, what weeds need to be treated, what trees need to be harvested.

This will go on for 15 years. Over those 15 years the Forest Service is required to mechanically treat 100,000 acres. As Secretary Vilsack said, this goal is, and I quote, "ambitious, but sustainable and achievable."

The Congress often tells the agency what it cannot do. This bill which is really a pilot project tells the agency what it should—must do. I know that the mandate in this bill has made some of my colleagues uncomfortable. But I can't see why Congress wouldn't want to give the agency the full backing of what the American people to say, we want you to go do good work, go forth and do good work creating jobs and restoring our National Forests because the status quo is not allowing that to happen. This bill is a measure of our commitment to our rural communities, our workers, our forests and the Forest Service itself.

I'd like to take a moment to touch on what this bill will not do.

It will not take away grazing permits in wilderness areas.

It will not impact existing water rights.

My bill clearly incorporates regulations ensuring that ranchers continue—can continue to operate their businesses in wilderness. Congress has been clear on this topic in the past. My bill is clear on this now.

I not only listened to general concerns. I listened to specific concerns when considering ranching issues. For example there's language in the bill that ensures ranchers who graze in the Snowcress will continue to have adequate access to their off river watering facilities. Some of those ranchers still don't support this bill. That's OK. I put the language in because it's the right thing to do.

This bill will not shut down motorized recreation. There are 6,600 miles of roads and trails on the Beaverhead-Deerlodge Forest

alone. This bill closes fewer than 50 miles of them. Let me repeat that. Out of 6,600 miles of roads and trails, this bill closes less than 1 percent.

For the first time in Montana's history this bill creates permanent recreation areas in places that have long been enjoyed by snowmobilers. Up in Lincoln County, for example, conservationists in the Troy and Libby Snowmobiling Clubs found their zone of agreement, which is reflected on the maps that accompany my bill. I'm proud of their work.

Let me, for a moment, touch on what the bill does once more. I'm more interested in that.

It creates jobs.

It launches an important forest and watershed restoration program.

It sets aside some lands for recreation.

For the first time in 28 years, the bill protects some of Montana's wildest back country areas as wilderness.

We are blessed to have wild country in Montana with clean water and great habitat. We should protect some of it. Not only for today, but for future generations.

Mr. Chairman, this bill sets aside in transpositions and bitter feelings that have crippled Montana for decades. Montanans put down their fists and with great humility worked together to create something big for my State.

It will put people to work in the woods.

It will make our forests healthier and more resilient to fire.

It will protect our finest hunting and fishing lands.

Everyone gave a little and we'll get a lot. It deserves a vote. It deserves to pass. It deserves to be signed into law.

There are two other bills before this subcommittee that are important to Montana also. Senator Baucus' bill, in the Northwest corner of Montana is the North Fork of the Flathead River, one of the last untouched areas in the lower 48 States. You know, there are just some places that we shouldn't develop. The watershed next to Glacier National Park is one of them.

It's an honor to work with Senator Baucus to assure that the North Fork of the Flathead is protected for future generations by prohibiting future oil, gas and mineral leasing. Senator Baucus has worked for literally four decades to protect this watershed by stopping each new proposed mine from coal bed methane to gold. In February 2010, this effort got a boost when Montana and British Columbia signed an MOU to protect this watershed. I applaud Governor Schweitzer for securing this agreement.

We continue to work with the Governor, the Department of Interior, business interests, mining interests and the Canadian government to make the protection permanent. We've had some great success. Since Senator Baucus and I last testified, over 80 percent of the leases have been retired in the North Fork of the Flathead, at no cost to American taxpayers. I very much appreciate the efforts of the companies that have agreed to relinquish their leases and who support this bill.

This spring, Senator Baucus and I have nurtured an agreement codifying permanent protection for this world famous area between the Department of Interior, the governments of British Columbia,

Montana, Canada, as well as the Nature Conservancy to retire, again at no cost to the taxpayer, the mining claims on the Canadian side of the border. By the end of the year the BC government will pass a statute restricting development in the Canadian North Fork of the Flathead watershed. Now it is time to codify those good steps by upholding our commitment to prevent future leasing in an area on the U.S. side of the border.

Protecting the crown of the continent just doesn't make environmental sense, it makes economic sense. The Glacier National Park is the core of Montana's 3.4 billion dollar tourism industry, an economic engine, second only to agriculture in our State. All kinds of businesses recognize this from Conoco Phillips to the Kalispell Chamber of Commerce, over 40 groups support this bill. I'm unaware of any who oppose it.

People from all stripes support protecting this remote and wild landscape. Now it is our turn to solidify our commitment to these lands. The first step is by passing this bill.

Finally I'd just like to say a few words about the Federal Land Transaction Facilitation Act, another bill on the agenda today that I have co-sponsored. FLTFA allows land agencies to dispose of low priority land and acquire in holdings from willing sellers. This helps the agency consolidate and manage their lands more effectively increasing access for sportsmen and protecting wildlife habitat.

FLTFA has had a number of success stories in my State of Montana. This is common sense. It's good government. I urge the committee to permanently extend this important administrative tool.

Mr. Chairman, I want to thank you for the chance to testify on these important bills. I look forward to working with the committee on their passage.

Senator WYDEN. Senator Tester, thank you very much. That's very helpful to get, particularly on the major bill that you've worked on and the effort to try to bring folks together. Your assessment of how it's going.

As I say, we're going to work very closely with you so that we can really look to the future. Say that right now, a couple of States are willing to step out and show the way. Even though we weren't rewriting all the forestry laws in America, a couple States were able to break out, bring people together and show the way to what I call, the new forestry of the West.

Colleagues, Senator Tester asked to sit in. I think that was acceptable to both sides. Would colleagues like to ask Senator Tester any questions about his measures?

Senator RISCH. Jon, you know what's coming. Where are we on Mount Jefferson? Is the Southern half of Mount Jefferson out?

As you know the only access to it is through Idaho and it's very important to people snowmobiling in the wintertime in Idaho.

Senator TESTER. Yes. I appreciate the impact on your State of the Mount Jefferson issue. We have talked as well as Senator Crapo several times on the issue. I think that if you'd agree to support the bill I think we'll agree to drop Jefferson.

Senator RISCH. I can't go quite that far. However. However.

Senator TESTER. All you've got to do——

Senator RISCH. If Mount Jefferson is in, I have no choice but to oppose the bill.

Senator TESTER. Right. We intend on taking Mount Jefferson out with—due to our conversations with you and Senator Crapo.

Senator RISCH. Thank you.

Senator TESTER. I would love to have your support on this bill. I think——

Senator RISCH. We'll talk some.

Senator TESTER. A simple yes vote when the clerk calls the roll will work.

[Laughter.]

Senator RISCH. We'll talk some more, Senator.

Thank you.

Mr. Chair.

Senator WYDEN. Thank you, Senator Risch. Senator Tester, please feel free to come on up at the dais. With that let's bring forward Harris Sherman and Ms. Burke, representing the Department of Agriculture and the Department of Interior.

We're glad to have folks from the Administration here. We welcome you.

Why don't you begin, Mr. Sherman?

STATEMENT OF HARRIS SHERMAN, UNDER SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT, DEPARTMENT OF AGRICULTURE

Mr. SHERMAN. Thank you, Chairman Wyden. It's a pleasure to be here. My name is Harris Sherman. I'm Under Secretary at USDA for Natural Resources and the Environment. I understand that our written statements will be included for the record.

Let me, with your permission, briefly comment on three bills. Then focus the majority of my time on the Sealaska legislation.

First, S. 233, the North Fork Watershed Protection Act. USDA supports this bill and we would be happy to take any questions later on it.

As to S. 375, the Good Neighbor bill, USDA generally supports this bill. We wish to work with the sponsors on a few modifications regarding contracting procedures, worker safety and labor law issues, but overwhelmingly we believe that it is an excellent program for my home State of Colorado. I've seen how it works. We think it is a very helpful tool overall to deal with these issues.

As to S. 286, Senator Tester's Forest Jobs and Recreation Act, I want to initially thank Senator Tester for his outstanding leadership in preparing this legislation and bringing the parties together. Much progress has been made on this bill. The bill will bring important jobs to Montana. It will allow significant mechanical and restoration work to be done. It will bring new land into our National Wilderness systems.

The legislation also promotes landscape scale restoration, stewardship contracts. It is supportive of integrated resource restoration. It fosters local collaboration.

We have a few concerns with the bill which are largely technical which are set forth in my written testimony. We look forward to working with Senator Tester and the committee on language to address these issues.

Now turning my attention to S. 730, the Sealaska bill. At the outset, we fully support Sealaska's finalization of all of its land entitlements. To finalize all of the associated issues that come with that.

This process has gone on too long. It needs to be brought to closure. We believe closure will be helpful to virtually everyone.

Want to thank Senator Murkowski for her leadership and her resolve to solve a number of these issues from prior legislative efforts. We appreciate that. We appreciate your leadership in keeping the parties talking about this, along with Senator Begich.

There remain a number of very important issues where we need to find a common solution. A solution which will allow Sealaska to pursue future opportunities and one which will allow other important priorities to succeed, particularly the transition away from old growth and road less forest to second growth forest and restoration projects and the transition to a more diversified, vibrant economy for Southeast Alaska involving not only timber, but commercial fishing, recreation and tourism and renewable energy. We're pleased that the parties have been working together, all the parties, including Sealaska on addressing these more diversified economic opportunities.

All of these efforts will provide jobs, jobs both native and nonnative communities going forward. In that context our concern with the bill are the following.

No. 1, the lands identified by Sealaska for timber development overlap to a considerable extent with lands that are critical to the success of the Forest Service's transition strategy in the next 10 to 15 years. These lands are central to providing local mills with sustainable, dependable wood for the foreseeable future. These are lands that the Forest Service has invested in the neighborhood of 50 million dollars to prepare for second growth opportunities. Since Sealaska's intention as we understand it, is to export most of the logs abroad, we are genuinely concerned about how we will meet the needs of Southeast Alaska's remaining mills and the value added products that they contribute.

No. 2, a portion of the lands targeted by Sealaska for development outside of the withdrawal areas are old growth reserves which provide essential habitat to the goshawk and the grey wolf, both species of concern. The Forest Service in its Tongass land management plan committed to protecting these areas. This commitment was an important factor in the Fish and Wildlife Service support of the plan.

If these lands are developed by Sealaska, we are concerned about the impact of the goshawk and to the grey wolf. We're concerned about whether this would trigger new petitions for a listing of the species. We're concerned about what the response of the Fish and Wildlife Service would be.

No. 3, the Forest Service remains very concerned about the possibility of 30 new in holdings, the so called future sites within the National Forest. We know from experience nationally that in holdings are often problematic. They present significant access issues, boundary issues. They present challenges to handling and controlling impacts on and off the Federal lands as well as general management issues.

No. 4, we believe that the legislation will likely necessitate amendments to the Tongass Land Management plan, a process that has proved difficult in the past. Only recently did the Forest Service complete the recent planning amendments which we were very gratified was not challenged.

With all of this said, we are prepared to work with the committee, with Sealaska, with all of the stakeholders to find appropriate solutions to these challenges.

Thank you very much.

[The prepared statement of Mr. Sherman follows:]

PREPARED STATEMENT OF HARRIS SHERMAN, UNDER SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT, DEPARTMENT OF AGRICULTURE

S. 233 AND S. 375

Mr. Chairman, Honorable Ranking Member and members of the Committee, thank you for the opportunity to present the views of the Department of Agriculture on S. 233 to withdrawal land and mining interests from the Flathead River Watershed in Montana and S. 375 to enter into cooperative agreements with state foresters, also known as the Good Neighbor Forestry Act. I will open my testimony by addressing S. 233, followed by S. 375.

S.233: The North Fork Watershed Protection Act of 2011

S. 233 would, subject to valid existing rights, withdraw National Forest System (NFS) lands located in the North Fork and Middle Fork of Flathead River watersheds in Montana which are primarily managed as part of the Flathead National Forest from location, entry and patent under the mining laws and from disposition under the mineral and geothermal leasing laws. S. 233 would also withdrawal a small amount of land in the Kootenai National Forest. Currently there are 39 existing leases or claims in the North Fork comprising 56,117 acres and 18 existing leases or claims in the Middle Fork comprising 8,595 acres. The Department supports S. 233, however, I would like to clarify that although the Department has surface management authority concerning mineral operations, the management of the federal mineral estate falls within the jurisdiction of the Secretary of the Interior. We defer to the Department of the Interior on issues related to the status of the existing claims and leases.

BACKGROUND

The Forest Service administers surface resources on nearly 193 million acres of NFS lands located in forty-two states and the Commonwealth of Puerto Rico. The Forest Plan for the Flathead National Forest blends areas of multiple uses in the North Fork and Middle Fork with areas of specific or limited uses elsewhere on the Forest. Under current law, NFS lands reserved from the public domain pursuant to the Creative Act of 1891, including those in S. 233, are open to location, entry and patent under the United States Mining Laws unless those lands have subsequently been withdrawn from the application of the mining laws. This bill would withdraw approximately 362,000 acres from the operation of the locatable and leasable mineral laws subject to valid existing rights. This includes approximately 291,000 acres on the Flathead National Forest and approximately 5,000 acres on the Kootenai National Forest in the North Fork watershed and 66,000 acres in the Middle Fork watershed on the Flathead National Forest.

The majority of North Fork and Middle Fork of the Flathead has low to moderate potential for the occurrence of locatable and leasable minerals. A portion of the Middle Fork does have an area of high potential for oil and gas occurrence. Much of the North Fork and Middle Fork was leased for oil and gas in the early 1980s. Subsequently, the Bureau of Land Management (BLM) and Forest Service were sued and BLM suspended the leases in 1985 to comply with a District Court ruling (Conner v. Burford, 605 F. Supp. 107 (D.Mont.1985)). Presently, there are no active locatable or leasable operations, including oil and gas, in the North Fork or Middle Fork.

COMMENTS ON S. 233

We recognize the bill would not affect the existing oil and gas leases because they would constitute valid existing rights. We also recognize the bill would not change

the court's order in Conner v. Burford requiring the BLM and Forest Service to prepare an environmental impact statement (EIS) under the National Environmental Policy Act before authorizing any surface disturbing activities on the affected leases.

The Flathead National Forest and Flathead County rely on the close proximity of local sources of aggregate to maintain roads economically and as a source of building materials. We are pleased this bill would not preclude the removal and use of mineral materials, such as aggregate. The ability to continue using those local mineral materials would allow us to more easily maintain local roads, thus reduce erosion related impacts to streams and lakes in the North Fork and Middle Fork drainages. We appreciate Senators Baucus and Tester's strong commitment to protecting Montana's natural resources.

S. 375: Good Neighbor Forestry Act

I'll now discuss S.375, which would authorize the Secretary of Agriculture and the Secretary of the Interior to enter into cooperative agreements or contracts with State foresters authorizing State foresters to provide certain forest, rangeland and watershed restoration and protection services in states west of the 100th meridian. Activities that could be undertaken using this authority include: (1) activities to treat insect infected trees; (2) activities to reduce hazardous fuels; and (3) any other activities to restore or improve forest, rangeland and watershed health, including fish and wildlife habitat. The bill would authorize the states to act as agents for the Secretary and would provide that states could subcontract for services authorized under this bill. The bill would require federal retention of decision making under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321et seq.). The authority to enter into contracts or agreements under the bill would expire on September 30, 2019.

We support Good Neighbor Authority (GNA) and believe our Nation's forests face forest health challenges, which must be addressed across diverse land ownerships. In these times of limited resources, it is important to leverage workforce and technical capacities and develop partnerships for forest restoration across all lands. We believe further study and analysis is needed to better understand the interplay of needs, state and federal contracting and labor law and regulation before expansion of the authority is authorized. Further, it is important to recognize that all environmental safeguards, policies and laws remain in place. To that end, we look forward to continuing our work with the committee, States, and federal agencies to develop a better understanding of the issues and make suggestions to improve the bill in a manner that meets the needs of key stakeholders.

HOW WE USE THE CURRENT GOOD NEIGHBOR AUTHORITY

The Forest Service has gained valuable experience using GNA in Colorado and Utah pilot programs over the past several years. In Colorado, the authority has been successfully used on 37 projects focused on fuel reduction activities, such as tree thinning, resulting in the treatment of approximately 3,900 acres on the Arapaho-Roosevelt and Pike-San Isabel National. Almost all of the projects in Colorado included some form of hazardous fuels reduction within the wildland-urban interface, including the creation of defensible space around subdivisions and private residences, the creation of shaded fuelbreaks, treatment and salvage of insect-infested trees, the creation of evacuation routes and thinning. In Utah on the Dixie National Forest the authority has enhanced, protected and restored watersheds, particularly focused on rehabilitation and recovery of a burned area. In all, we have completed 60 projects in both Colorado and Utah.

For example, in Colorado, Shadow Mountain Estates is a large subdivision (several hundred acres) that directly borders National Forest System (NFS) lands on the Arapaho National Forest in Colorado. In 2006, Shadow Mountain Estates contracted the Colorado State Forest Service (CSFS) to remove dead trees from within the neighborhood to reduce fire risk and in 2007 the subdivision requested the Forest Service to treat the adjoining public lands to enhance its fire prevention efforts. As a result of this request, the Forest Service entered into the Green Ridge Good Neighbor Agreement with the CSFS to remove hazardous fuels and create a defensible space on federal lands in this wildland urban interface.

The contract to remove the trees from both private and federal lands was prepared, advertised and administered by the CSFS, and resulted in the treatment of 135 acres of NFS land. The project was completed in June of 2008. Shadow Mountain Estates is satisfied with the result, as the treated area contributes to reduced wildfire damage risk to the neighborhood and is aesthetically pleasing.

BENEFITS TO THE LAND AND RELATIONSHIPS

The GNA was the subject of a Government Accounting Office report in February of 2009 (GAO-09-277). The report summarizes our experiences and makes suggestions for improving use of the authority. The GAO report found that the GNA has facilitated cross boundary watershed restoration and hazardous fuel removal activities.

The GAO report notes the Forest Service's experience that the authority has resulted in the accomplishment of more restoration and protection treatments than would have otherwise been accomplished, particularly within the wildland urban interface. On the ground experience from Colorado and Utah indicates there is increased efficiency for both state and federal agencies, because all project work is done at one time, with one contract, making implementation more consistent. Further, the authority enhances our ability to work with private landowners through the State Forester to remove hazardous fuels on adjacent NFS lands and, perhaps most importantly, it builds greater cooperation among stakeholders.

The Forest Service will continue its review of the findings and recommendations from the GAO and continue to improve its use of the Good Neighbor Authority. The Good Neighbor Authority has produced great results in Colorado and Utah. Its further expansion to states west of the 100th meridian will help meet the department's "All Hands-All Lands" approach. The USDA believes this bill has broader applicability to all national forests, especially in dealing with mixed federal-private lands as long as we are maintaining existing environmental safeguards, polices and laws.

We look forward to working with the Committee, States and federal agencies to continue to be a good neighbor and make suggestions to improve the bill in a manner that meets the needs of key stakeholders and all national forests.

This concludes my testimony on S. 233 and S. 375. I am happy to answer any questions you may have on any of the bills.

S. 268

Mr. Chairman, Members of the Committee, I am Harris Sherman, Under Secretary of Agriculture for Natural Resources and Environment. Thank you for the opportunity to share the Department's views on S. 268, the Forest Jobs and Recreation Act of 2011.

S. 268 directs the Secretary of Agriculture to develop and implement forest and watershed restoration projects on 70,000 acres of the Beaverhead-Deerlodge National Forest and 30,000 acres of the Kootenai National Forest within 15 years of enactment. The bill prescribes treatment methods, annual acreage targets, and standardized criteria to prioritize areas for restoration projects. It also requires consultation with an advisory committee or collaborative group for each restoration project implemented by the Secretary, and calls for a monitoring report every five years. The bill designates twenty-four wilderness areas totaling approximately 666,260 acres, six recreation areas totaling approximately 288,780 acres, and three special management areas totaling approximately 80,720 acres. Some of the designations apply to lands managed by the Bureau of Land Management and we defer to the Department of the Interior on those provisions.

We appreciate the close work of the Senator's staff with the Forest Service to refine legislation that would provide a full suite of significant benefits for the people, economy, and forests of Montana and the nation. The continuing commitment to bring diverse interests together to find solutions that provide a context for restoration, renewal, and sustainability of public landscapes is evident in the legislation being considered by this Committee today.

The Department supports the concepts embodied in this legislation, including collaboratively developed landscape scale projects, increased use of stewardship contracting, the designation of wilderness areas, and the importance of a viable forest products industry in restoring ecosystems and economies. In fact, we are currently engaged in numerous programs and activities on the National Forests of Montana and around the nation that embrace the concepts in this bill. While we support the concepts of the legislation, the Department has concerns regarding Title I which I will address later in my testimony.

The President's FY 12 budget proposal includes an $854 million Integrated Resource Restoration (IRR) line-item. This integrated approach, similar to the landscape scale efforts envisioned in this bill, will allow the Forest Service to apply the landscape scale concept across the entire National Forest System.

Three examples of the work we are carrying out in the spirit of this legislation, which IRR is intended to help us replicate, are underway as large-scale restoration projects on the National Forests of Montana: the East Deerlodge Stewardship project on the Beaverhead-Deerlodge, developed with a local collaborative group,

which is expected to substantially increase treated acres and harvested volumes based on the President's FY12 budget request; a Region-wide Long-Term Stewardship Contract, which will accomplish a wide range of restoration priorities throughout the State; and the Southwestern Crown of the Continent project, which will treat close to 200,000 acres on the Lolo, Flathead and Helena National Forests with funding provided under the Collaborative Forest Landscape Restoration Program.

Efforts such as these have helped the agency and stakeholders gain experience in identifying the factors necessary for the success of large-scale restoration projects, and I acknowledge the Senator's incorporation of their input into this legislation. I offer our continued support for further collaboration on addressing remaining concerns to ensure that it can serve as a model for similar efforts elsewhere.

Regarding the input from the Department that the Senator has incorporated, there are three items in the new legislation for which I would like to express the Department's appreciation in particular: (1) the incorporation of the administrative review procedures in Section 103(d), which promote transparency and encourage proactive collaboration, thus resulting in better decisions and more work done on the ground; (2) the adjustments to wilderness area designations in Title II, which now more closely reflect the extensive collaboration, analysis and resulting recommendations of the Beaverhead-Deerlodge 2009 Forest Plan and other forest plans; and (3) the removal of the previous bill's prescriptions for how the agency would meet requirements of the National Environmental Policy Act (NEPA), which would have likely resulted in greater controversy and complicated the agency's approach to environmental review.

COMMENTS ON THE LEGISLATION

In general, and as the Department has testified to this Subcommittee in the last Congress, we have reservations about legislating forest management direction or specific treatment levels on a site-specific basis because it could establish a precedent leading to multiple site-specific laws in the future. We also recognize the importance of collaborative efforts such as the one which helped produce this legislation. These efforts are critically important to increasing public support for needed forest management activities, particularly in light of the bark beetle crisis facing Montana and other western states. We believe these efforts can significantly advance forest restoration, reduce litigation risk for these activities, and make it easier to provide jobs and opportunities in the forest industry for rural communities.

I will now point out several specific concerns that the Department would like to work with the Committee and Senator Tester to address.

One concern is the definition of mechanical treatment in Section 102(6). The Department acknowledges the inclusion of language that allows fiber to be left on the forest floor after treatment only if an option for removal of the fiber was provided. However, while we acknowledge the importance of encouraging the development of woody biomass and other small-diameter timber markets, requiring that an option be provided for removing the fiber creates a barrier to using certain contracting methods that may be more effective in achieving the objectives of the bill.

Another concern arises in Section 103(b). While the Department believes the acreage targets for mechanical treatments are achievable and sustainable, we are concerned about the precedent set by legislating these targets given constrained Federal resources. Further, the Department would not want to draw resources from priority work on other units of the National Forest System in order to accomplish the goals in this legislation. Finally, we do not want to create unrealistic expectations by communities and stakeholders about the quantity of treatments that the agency would accomplish.

The reporting requirements in Section 103(f) raise two concerns. First, the requirements overlook an important opportunity to evaluate whether the Act's prescriptions continue to provide optimal performance in light of potential changes in budget trends, wood markets and forest health conditions. Second, the analyses prescribed by this subsection may be duplicative of reports required by other laws and regulations.

Regarding Section 103(g), we very much appreciate the Senator's recognition of the need to maintain the agency's financial capacity to carry out critical forest management activities elsewhere in the National Forest System. We look forward to working with the Senator to further refine this subsection in order to achieve that outcome. Specifically, we are concerned that the provision as written could give rise to potential litigation about the appropriate allocation of funds among the Regions.

Finally, the Department is concerned about several prescriptions in the legislation that codify scientific assumptions and value determinations that, while consistent with our shared vision today, may come to be recognized as undesirable or ineffec-

tive as new data and circumstances arise in the future. These include the road-density standards in Sections 104(a)(4) and 104(b)(3), and the INFISH compliance requirement in Section 104(b)(1).

Regarding the land designations in Title II that pertain to lands under the jurisdiction of the Forest Service, we support the wilderness recommendations made in each Forest's land and resource management plan given the depth of analysis and public collaboration that goes into them. Therefore we are pleased that many of the bill's wilderness designations are generally consistent with those plans, and I acknowledge the Senator's work with the Forest Service to resolve many important issues that arose in this respect with the previously introduced legislation. We would like to address some remaining inconsistencies, however, particularly concerning the Mount Jefferson Wilderness designation in Section 203(a)(11).

In closing, I want to thank Senator Tester once again for his strong commitment to Montana's communities and natural resources. We want to underscore our commitment to the continuing collaboration with the Senator and his staff, the committee, and all interested stakeholders in an open, inclusive and transparent manner to provide the best land stewardship for our National Forests.

This concludes my prepared statement, and I would be pleased to answer any questions you may have.

S. 730

Mr. Chairman, Honorable Ranking Member and distinguished members of the Committee, thank you for the opportunity to speak with you today about Native land claims in Southeast Alaska. I will open my testimony by addressing the direction in which the Department of Agriculture (USDA) and the Forest Service are heading regarding economic sustainability in Southeast Alaska and how our vision for economic diversification ties into S. 730, the Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act.

The USDA recognizes and supports the timely, equitable and final distribution of land entitlement to Alaska Native Corporations, including Sealaska, under the Alaska Native Claims Settlement Act (ANCSA). The USDA understands Sealaska's interest in acquiring lands, which have economic and cultural value. The USDA also recognizes and appreciates the improvements made as a result of work on a similar bill introduced last Congress. I wish to express our continued interest in working collaboratively with Sealaska, the Alaska Congressional delegation, this committee and other community partners to find an equitable solution that is in the public interest.

While the USDA supports a number of the goals of this legislation, we continue to have a number of concerns we wish to work through with the involved parties. This will be the focus of my testimony.

BACKGROUND

When enacting ANCSA in 1971, Congress balanced the need for a fair and just settlement of Alaska Native aboriginal land claims with the need for use of the public lands in Alaska. The approach to resolve Alaska Native claims in ANCSA is unique in its reliance on the creation of Alaska Native Village and Regional Corporations, which generally receive entitlement from lands located within the original Native village withdrawal areas. Congress defined the land entitlements of both village and regional corporations, but provided for some differentiation among corporations to consider individual village or region circumstances.

One such consideration was the reduction of land entitlement to the village and regional corporations representing Alaska Natives in Southeast Alaska. The Tlingit and Haida Tribes of Southeast Alaska brought a "taking" lawsuit against the United States for land claims and the U.S. Court of Claims awarded damages to the tribes shortly before ANCSA was enacted. Recognizing this prior award, Congress reduced the entitlement of village and regional corporations in Southeast Alaska, with Sealaska receiving its entitlement only under Section 14(h) of ANCSA.

Sealaska has thus far received more than 290,000 acres of 14(h) entitlement, with approximately 63,605 acres of ANCSA entitlement yet to be conveyed, based on the Bureau of Land Management's (BLM) estimates. Sealaska has prioritized its selections within the original withdrawal areas as required by the 2004 Acceleration Act, with approximately 138,000 acres of prioritized selections identified. The selections identified by Sealaska within the original withdrawal areas are more than sufficient to meet Sealaska's remaining ANCSA entitlement, but were put on hold at Sealaska's request to pursue a legislative alternative to select outside the ANCSA withdrawl area to settle their remaining entitlements.

SOUTHEAST ALASKA TRANSITION STRATEGY

Since testifying last before this committee, the USDA has made great strides in developing approaches to diversify and sustain the economy in Southeast Alaska. Through a coordinated interagency effort, USDA is focusing with local interests on ways to provide long-term, sustainable support for a wide array of economic opportunities for Southeast Alaska communities, including Alaska Natives around second-growth timber production, ecosystem restoration, bio-energy, ocean products and tourism and recreation. Tourism and recreation, as a whole, has been the fastest growing industry in Southeast Alaska, employing over 3,200 people and accounting for $109 million in wages and benefits. Ocean products, including fisheries and mariculture, are providing in excess of $234 million in wages and benefits. Furthermore, we see an ecosystem restoration job sector providing more than 100 jobs in Southeast Alaskan communities. Beyond traditional opportunities, the Forest Service and other partner USDA agencies are working to facilitate future opportunities and growth in job sectors beyond forestry and forest products.

To support the communities and people of Southeast Alaska, the Forest Service has developed a comprehensive 5-year plan focused on a suite of integrated projects including timber projects in the roaded base, pre-commercial thinning, integrated stewardship, road and watershed restoration and fish and wildlife habitat improvements, all designed to allow managers to mix and match and meet the local needs of Alaska Native villages and Southeast Alaskan communities. Furthermore, the agency issued a contract for asset mapping to identify economic strengths, weaknesses, opportunities and threats to diversification focused on the different economic clusters identified in our contract with the Juneau Economic Development Council. The USDA agencies just completed several months of meetings with working groups comprised of key industry leaders, including participation by Sealaska representatives. The groups addressed the integration of forest restoration and broad economic development in the areas of forest, ocean, visitor and energy products. Additionally, USDA has announced and distributed more than $55 million last year in funding to communities in Southeast Alaska for an array of projects and activities that demonstrates our commitment to Southeast Alaska. I am optimistic that the USDA can promote new economic opportunities for Southeast communities, including Alaska Natives, beyond the traditional focus of roadless old growth timber harvests.

In this broad context, the USDA has determined its stance on S. 730 and evaluated whether it facilitates or hinders the Administration's goals for promoting job protection, creation, and economic diversification in Southeast Alaska.

Conflict on the Tongass National Forest pertaining to the harvesting of old growth in roadless areas has intensified over the last 10-15 years. The forest has faced 18 lawsuits during this period, many of which were resolved through settlements or adverse judgments, but all of which cost valuable time and taxpayer dollars. The Administration recognizes a balance must be struck between many diverse and competing needs and we need to chart a course of action that moves us away from old growth and roadless area harvests sooner rather than later. To move us away from this conflict, we must operate on three primary principles 1) provide timber for local value added products; 2) keep the conservation strategy in the Tongas Land Management Plan and environmental values intact and 3) stay clear of roadless areas.

We understand that Sealaska is interested in maintaining export of round logs, using a local workforce generally found in the rural communities of Southeast Alaska to do the harvesting and hauling. The Forest Service's primary interest is maintaining adequate supply of timber for local processing by existing mills and the jobs associated with those mills. This is a central aim of the transition strategy that the Forest Service has developed and one that is achievable if the Forest Service has access to a sufficient quantity of timber available on lands that have existing roads. The Forest Service and Sealaska have an interest in maintaining the loggers and other forestry infrastructure to support a local forest economy and both the Forest Service and Sealaska have an interest in moving away from the dependency on old growth and moving to harvesting young growth stands.

The lands identified in S.730 represent a significant part of the Forest Service's roaded land base for Southeast Alaska identified in the Tongass Land Management Plan as suitable for timber harvest. The majority of the lands identified in S.730 are close to the only remaining medium sized mill and several smaller, local mills in the Tongass National Forest. The Forest Service has determined that approximately 64-percent of the land withdrawn and available for selection in section 3(b)(1) of S. 730 is within the project area for projects listed on the Tongass' 5-year plan. Specifically, the selections would impact six projects, which represent potential profitable sales to the medium sized mill and smaller local mills in the next five years. Additionally, the Forest Service has made substantive investments in lands

identified in S. 730 through environmental analysis, stand management, roads, log transfer facilities, maintenance, trails, fish habitat restoration and others activities, totaling more than $50 million.

Approximately 6,900 acres of land identified for selection in section 3(b)(1) support an older age class of second growth forests (50 years and older, on productive soils). These lands include more than 5,000 acres on Kozciusco Island and another 1,275 acres on Kuiu. These selections cover areas that represent the Forest Service's best, first entry into commercial second growth, including projects currently listed on the Tongass' 5-year plan.

Ultimately, the transfer of these of these older second growth stands from the Forest Service to Sealaska will reduce the available timber supply for local mills and hamper the Forest Service transition to second growth in Southeast Alaska. Removing these stands also means that more old growth areas would be harvested longer, because it will take more time for the second growth stands to mature into legally harvestable ages. The Forest Service believes this will increase the potential for litigation around timber sales and thereby create significant uncertainty for the forest industry.

There are a number of ways this issue could be addressed, and USDA is willing to work with Sealaska to find a solution that meets the needs of all the affected parties and is in the public interest in Alaska.

CONSERVATION STRATEGY AND OLD GROWTH RESERVES (OGR)

The Tongass Land Management Plan's conservation strategy was formulated around Sealaska's selections within the original ANCSA withdrawal areas. Old growth reserves found within the land pool identified in S. 730 are central to the Tongass National Forest's conservation strategy as outlined in its land management plan. The land management plan includes a comprehensive, science-based conservation strategy to address wildlife sustainability and viability. This strategy includes a network of variable sized old growth reserves across the forest designed to provide for connectivity and maintain the composition, structure and function of the old growth ecosystem.

In 1997, the US Fish and Wildlife Service (USFWS) decided not to list Queen Charlotte goshawk and Alexander Archipelago wolf under the Endangered Species Act, based on the protective measures incorporated in the conservation strategy of the 1997 Tongass Forest Plan, primarily the network of old growth reserves and the positioning of the reserves across the landscape, and the existence of forested corridors between the reserves. The USFWS reaffirmed this finding regarding the goshawk in 2007, and the Department of the Interior asked the Forest Service to retain the Conservation Strategy in the 2008 Tongass Forest Plan Amendment (TLMP). These were among the main reasons why the 2008 TLMP Amendment kept all the major components of the conservation strategy.

Conveyance of land selections as proposed in S. 730 will decrease the effectiveness of the Tongass' conservation strategy and could hamper the plan's ability to maintain viable populations of plant and wildlife species. This could lead to the need for USFWS to reconsider its previous determinations regarding the goshawk and gray wolf. Replacing the old growth reserve areas with an equal number of acres from somewhere else within the forest does not resolve the effects on the land management plan's conservation strategy; the location and design of the old growth reserve network is critical to the success of the conservation strategy. Distribution of the reserves across the landscape and composition of the habitat within each reserve, were carefully considered. Because of the potential Endangered Species Act issues, the Forest Service is concerned that S. 730 could increase the chances for litigation, which would increase uncertainty for all parties, including Sealaska and local mills. The USDA is willing to discuss mechanisms for maintaining these old growth reserves to ensure they remain whole.

Although S. 730 provides that implementation of this legislation will not require an amendment or revision to the Tongass Land Management Plan (TLMP), this language would not prevent issues from arising during TLMP implementation. If the significant management assumptions and strategies that formed the basis of the plan are modified through enactment of S. 730, the TLMP cannot be implemented as currently intended.

FINALIZING SEALASKA ENTITLEMENT

As the title of this legislation suggests, any legislated solution finalizing Sealaska's entitlement must actually resolve all of Sealaska entitlement issues upon enactment, such as remaining entitlement acres, resolve outstanding split estate issues, relinquish existing Sealaska ANCSA selections and removal of the original

ANCSA withdrawal areas. This issue is significant to the Forest Service because without closure the agency cannot identify a stable land base and ensure that investments made today can be capitalized in the future.

In that context, we also have concerns about in-holdings. Selection from the land categories in section 3(b)(2) ("Sites with Traditional, Recreational, and Renewable Energy Use Value"), in section 3 (b)(3) ("Traditional and Customary Trade and Migration Routes") and in section 3(c) ("Sites with Sacred, Cultural, Traditional, or Historic Significance,") will result in a significant number of sites and routes scattered throughout the forest, creating in-holdings that cause significant management issues including access and boundary management problems. It is agency policy to avoid the creation of in-holdings. Likewise, the elimination of such in-holdings is, and has historically been, one of the agency's foremost land acquisition priorities. The Forest Service has extended considerable public resources to acquire the types of in-holdings that S 730 would create. We have concern over the 33 in-holdings created by the new land categories in S. 730. The Forest Service estimates that surveying and boundary management for new Sealaska land selections under S. 730.

Additionally, the escrow provision included in the legislation does not address the relinquishment of any rights Sealaska may have to escrow funds from lands within the original withdrawal area. In addition, S.730 is also not clear on what right Sealaska may have to claim escrow on the new parcels identified, which have previously been harvested. The USDA advocates clearly articulating the escrow account provisions to relinquish Sealaska's right to escrow within the original ANCSA identified withdrawal areas.

ALASKA LAND TRANSFER ACCELERATION ACT

In line with the Alaska Land Transfer Acceleration Act of 2004, the USDA supports a reduced conveyance timeline. S. 730, however, only provides for selections under section 3(b)(1) and would penalize Sealaska only if it had not made its selection under section 3(c)(2) within 15 years. Sealaska has previously provided copies of maps, which identify their sites of preference. Settling on those land selections prior to passage of S. 730, could resolve one of USDA's primary concerns with S. 730.

PUBLIC ACCESS

We continue to believe S. 730 will affect the Forest Service's ability to provide for continuous public access for subsistence uses and recreation on the Tongass National Forest. The legislation provides Sealaska the right to regulate access on certain lands where the public use is incompatible with Sealaska's natural resource development, as determined by Sealaska. The ability of the Forest Service to provide for access, subsistence activities and public and commercial recreation and tourism and will be limited by enactment of the legislation.

SPECIAL USE PERMITS: LIABILITY AND RESPONSIBILITY

The USDA supports Sealaska's willingness to continue to allow outfitting and guiding permits on lands identified in section 3(b)(2) ("Sites with Traditional, Recreational, and Renewable Energy Use Value") for the remaining term of the existing authorizations and for a subsequent 10 year renewal. However, the legislation should clearly specify that the existing Forest Service permits authorizing these uses would be revoked upon conveyance of the land, that Sealaska would allow continued use under the same terms and conditions as provided in the Forest Service permits, and that the United States would not be liable for the actions of these permittees. As it currently stands, the legislation specifically exempts Sealaska from liability, but provides for Sealaska to negotiate terms of the permit.

ENVIRONMENTAL MITIGATION, INCENTIVES AND CREDITS

Section 5(b) of S.730 would expressly authorize environmental mitigation and incentives for land conveyed to Sealaska. The USDA supports these provisions, which would allow any land conveyed to be eligible for participation in carbon markets or other similar programs, incentives or markets established by the federal government.

CONCLUSION

In conclusion, while USDA supports the goals of this legislation, we remain concerned about the consequences of the legislation, including its ability to actually finalize the entitlement and current outstanding split estate issues and the potential for the legislation to bring to closure the question of Sealaska's entitlement under

ANCSA. More broadly, USDA is concerned about the impact of S. 730 on the supply of timber for local mills; the transition to a sustainable timber harvest regime focused on second-growth forests; and the overarching conservation strategy outlined in the Tongass Land Management Plan.

However, the Department will continue to work with Sealaska and all the parties involved resolving these concerns and finding solutions that work for everyone.

This concludes my testimony and I am happy to answer any questions you may have.

Senator WYDEN. Mr. Sherman, thank you. We'll have some questions I know in a moment.

Ms. Burke.

STATEMENT OF MARCILYNN BURKE, DEPUTY DIRECTOR, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

Ms. BURKE. Good afternoon. thank you for the opportunity to testify on behalf of the Department of the Interior and the Bureau of Land Management. I will provide a brief summary of our written testimony on each of the five pieces of legislation.

S. 233, the North Fork Watershed Protection Act of 2011 withdraws approximately 430,000 acres within the North and Middle Fork watersheds of the Flathead River from all forms of location, entry and patent under the mining laws and from disposition under all laws related to mineral and geothermal leasing. The Department of the Interior supports this legislation and is committed to maintaining the ecological integrity of Glacier National Park, one of the most noteworthy national and cultural treasures of our Nation. This legislation will help protect and preserve the important resources of the greater Crown of the Continent ecosystem.

S. 268, the Forest Jobs and Recreation Act designates five wilderness areas on lands administered by the BLM in Southwestern Montana. The BLM supports these designations, and we appreciate the sponsor and the committee working with us over the last year to refine boundaries. Title I and the majority of title II of this legislation apply solely to National Forest System Lands. Accordingly, we defer to the Department of Agriculture on those provisions.

S. 375 authorizes the Secretary of the Interior to enter into cooperative agreements or contracts with a State forester to provide forest, rangeland and watershed restoration and protection services on lands managed by the BLM. We welcome the opportunity to engage in efforts that can advance cooperation across all landowners, improve the effectiveness of restoration, fuels treatments and provide cost effective tools for managing natural resources. To date the BLM has used this Good Neighbor Authority to help us meet our mission on some BLM parcels in Colorado where we had fuels treatment work across the BLM, U.S. forest service lands, and private lands all under a single contract. The Department supports Good Neighbor authority and would like to continue to work with Senator Barrasso and the committee on the bill.

S. 714, which would reauthorize and amend FLTFA, the Federal Land Transaction Facilitation Act. The Administration strongly supports this legislation. Over the past decade the Department of the Interior has used the provisions of FLTFA to sell lands through a process that is anchored in public participation and sound land use planning. Using the FLTFA proceeds, the BLM, the National

Park Service, the U.S. Fish and Wildlife Service and the U.S. Forest Service have acquired significant inholdings and adjacent lands from willing sellers, which enhance and preserve America's special places.

For example, in November 2009, the BLM used funds from this program to acquire approximately 4,500 acres within the Canyon of the Ancients National Monument in southwest Colorado. These in holdings encompass 25 documented cultural sites, and archeologists expect to record an additional 700 significant finds. At Zion National Park in Utah, FLTFA and LWCF moneys were used to acquire two, five-acre inholdings that overlook outstanding geologic formations that make for some of the most striking viewsheds in the park. These two parcels have been previously considered for private development.

Finally, S. 730 would amend the Alaska Natives Claims Settlement Act, ANCSA, to allow the Southeast Alaska Native Corporations, Sealaska, to select and receive conveyance of Federal lands from areas of Alaska outside of the originally designated withdrawal areas. The Department supports the goals of completing ANCSA entitlements as soon as possible so that Alaska Native Corporations, including Sealaska, may each have the full economic benefits of the lands that they're entitled to under ANCSA.

On behalf of the Department I'd like to thank Senator Murkowski and Senator Begich for their continued dedication and commitment on this complex issue. While the legislation currently as is drafted addresses several concerns that the Department raised during consideration of earlier legislation, the Administration continues to have some concerns. We look forward to continuing to work with Congress, Sealaska, community partners and all other stakeholders in order to fulfill the ANCSA entitlement on this very important issue. We defer to the Department of Agriculture on the important policy issues affecting the management of the National Forest lands.

Thank you for the opportunity to testify today. I'll answer any questions.

[The prepared statements of Ms. Burke follow:]

PREPARED STATEMENTS OF MARCILYNN A. BURKE, DEPUTY DIRECTOR, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

S. 233

Thank you for the invitation to testify on S. 233, the North Fork Watershed Protection Act of 2011. The Department of the Interior supports S. 233, which would withdraw Federal lands within the North Fork watershed of Montana's Flathead River from all forms of location, entry, and patent under the mining laws and from disposition under all laws related to mineral or geothermal leasing. Enactment of S. 233 would mark an important milestone in the work occurring across multiple jurisdictions to help preserve the remarkable resources in the Crown of the Continent ecosystem.

Background

The Flathead River Basin, a key portion of an area known as the Crown of the Continent ecosystem, spans the boundaries of the United States and Canada. It includes part of the United States' Glacier National Park and borders Canada's Waterton Lakes National Park. These two parks comprise the world's first International Peace Park as well as a World Heritage Site. The U.S. Forest Service's Flathead National Forest is also located within the Flathead River watershed. The Bureau of Land Management manages the Federal mineral estate underlying the Flathead National Forest.

Running along the west side of the Continental Divide, the North Fork of the Flathead River enters the United States at the Canadian border and forms the western border of Glacier National Park until its confluence with the Middle Fork of the Flathead River near the southern end of Glacier National Park. The North Fork watershed, a sub-basin of the Flathead River watershed, includes areas currently managed by the National Park Service, the State of Montana, the U.S. Forest Service, and some private landowners.

The Flathead River Basin is recognized for its natural resource values, including wildlife corridors for large and medium-sized carnivores, aquatic habitat, and plant species diversity. The area is rich in cultural heritage resources, with archeological evidence of human habitation starting 10,000 years ago. Several Indian tribes, including the Blackfeet, the Salish, and the Kootenai, have a well-established presence in the area. The area also has celebrated recreational opportunities, including hunting, fishing, and backcountry hiking and camping.

There has been interest in protecting the Crown of the Continent resources for some time. On February 18, 2010, the State of Montana and the Province of British Columbia executed a Memorandum of Understanding which addresses a myriad of issues related to the Flathead River Basin on both sides of the U.S.—Canada border. The intention of Part I.A. of that memorandum is to "[r]emove mining, oil and gas, and coal development as permissible land uses in the Flathead River Basin."

The Flathead River Basin contains Federally-owned subsurface mineral estate under National Forest System lands that the Federal government has leased for oil and gas development. At the time legislation was proposed in 2010, there were 115 oil and gas leases in the North Fork watershed that the BLM issued between 1982 and 1985. The leases, which cover over 238,000 acres, are inactive and under suspension as part of the 1985 court case Conner v. Burford. At the request of Montana Senators Max Baucus and John Tester, leaseholders have voluntarily relinquished 76 leases consisting of almost 182,000 acres. The BLM has not offered any other leases in the Flathead National Forest since the Conner v. Burford litigation suspended the existing leases in 1985.

The U.S. Forest Service is responsible for the surface management of National Forest System land; however, as noted earlier, the Secretary of the Interior and the BLM are responsible for administering the Federal subsurface mineral estate under the Mining Law of 1872, the Mineral Leasing Act of 1920, and various mineral leasing acts. With respect to locatable minerals and oil and gas resources, the Forest Service has authority to regulate the effects of mineral operations upon National Forest System resources. The BLM only issues mineral leases for locatable minerals and oil and gas resources upon concurrence of the surface management agency and always works cooperatively with the agency to ensure that management goals and objectives for mineral exploration and development activities are achieved, that operations are conducted to minimize effects on natural resources, and that the land affected by operations is reclaimed.

S. 233

S. 233 withdraws all Federal lands or interest in lands, comprised of approximately 430,000 acres of the Flathead National Forest, within the North and Middle Fork watersheds of the Flathead River from all forms of location, entry, and patent under the mining laws and from disposition under all laws related to mineral or geothermal leasing. We note that National Park acreage within the watershed is already unavailable for mineral entry. S. 233 does not affect valid, existing rights, including the 39 leases in the North Fork watershed that are suspended under the Conner v. Burford litigation. The Department fully supports S. 233 as it furthers the goal of preserving the important resources of this region.

The Waterton-Glacier International Peace Park, which extends from Canada into the United States, is one of the great protected ecosystems on the North American continent. A 2010 World Heritage Center/International Union for the Conservation of Nature Report noted that the International Peace Park is "one of the largest, most pristine, intact, and best protected expanses of natural terrain in North America. It provides the wide range of non-fragmented habitats and key ecological connections that are vital for the survival and security of wildlife and plants in the Waterton-Glacier property and the Flathead watershed." Retaining this expanse of natural landscape in the Crown of the Continent ecosystem is of vital importance for providing ecosystem connectivity, which is essential for the growth and survival of plants and animals in the region. S. 233 will help accomplish this goal.

The Department of the Interior is also committed to maintaining the ecological integrity of Glacier National Park, one of the most noteworthy natural and cultural treasures of our Nation. Preserving the region's and the park's water resources is

also critical. The rich aquatic ecosystems provide breeding and feeding habitats for a variety of important species, and the Department recognizes the importance of maintaining critical habitat corridors when planning for resources uses. S. 233 will help protect and preserve the important resources of the greater Crown of the Continent ecosystem, including those within Glacier National Park.

Conclusion

The Department supports S. 233 and commends the many parties involved in protecting the North Fork of the Flathead River and the important resources shared by the United States and Canada. We hope that this legislation and the efforts of the federal and state/provincial governments add to the important legacy of conservation in the Glacier/Waterton Lakes area and Flathead River basin.

S. 268

Thank you for inviting the Department of the Interior to testify on S. 268, the Forest Jobs and Recreation Act of 2011. The Bureau of Land Management (BLM) supports the wilderness designations on BLM-managed lands included in S. 268.

The vast majority of the designations and other substantive provisions of S. 268 apply to activities on National Forest System lands. We defer to the Department of Agriculture on those provisions.

Background

The southwestern corner of Montana is a critically important biological region. Linking the Greater Yellowstone Area and the Bitterroot Mountains of Idaho and Montana, these areas include important wildlife corridors that allow natural migrations of wildlife and help prevent species isolation. The Centennial Mountains are particularly noteworthy in this regard. The diversity of wildlife throughout this area is a strong indicator of its importance. Elk, mule deer, bighorn sheep, and moose, as well as their predators, such as bears, mountain lions and wolves, travel through this corner of Montana.

Outstanding dispersed recreational opportunities abound in this region as well. A day's hunting, hiking or fishing may be pursued in the splendid isolation of the steeply forested Ruby Mountains or in the foothill prairies of the Blacktail Mountains, areas largely untouched and pristine. For the more adventurous, Humbug Spires offers 65 million year-old rocks now eroded into fanciful spires, appreciated both for their climbing challenges as well as their scientific value.

S. 268

Title I of S. 268, applies solely to National Forest System Lands. Accordingly the Department of the Interior defers to the Department of Agriculture on those provisions. The majority of the designations in Title II of the bill are also on National Forest System Lands, and again we defer to the Department of Agriculture.

Section 203(b) of S. 268 designates five wilderness areas on lands administered by the BLM in southwestern Montana: the Blacktail Mountains Wilderness (10,675 acres), Centennial Mountains Wilderness (23,700 acres), Humbug Spires Wilderness (8,900 acres), East Fork Blacktail Wilderness (6,125 acres), and Ruby Mountains Wilderness (16,300 acres). The BLM supports these designations and we appreciate the Sponsor and the Committee working with us over the last year to refine these boundaries. All of these areas meet the definitions of wilderness in that they are areas where the land and its community of life are untrammeled. These areas have retained their primeval character and have been influenced primarily by the forces of nature, with outstanding opportunities for primitive recreation or solitude. We continue to encourage the Sponsor and the Committee to consider expanding the boundaries of the Centennial Mountains Wilderness in order to protect this area as a single coherent corridor, thereby providing enhanced benefit for the genetic diversity of the fauna inhabiting the Greater Yellowstone Area and the Bitterroot Range.

Furthermore, we support the transfer of administrative jurisdiction over the 660-acre Farlin Creek area to the Forest Service for inclusion in the adjoining 77,000 acre East Pioneers Wilderness Area.

Section 205 of S. 268 proposes to fully release four BLM-managed wilderness study areas (WSAs) in Beaverhead and Madison counties from WSA management thereby allowing the consideration of a full range of multiple uses. In addition, in five other WSAs, some areas would be released from WSA status and other areas would be partially designated as wilderness, as noted above. In all, over 66,000 acres of WSAs are proposed for release, and nearly 66,000 acres are proposed for wilderness designation; we support these provisions.

Conclusion

Thank you for the opportunity to testify. We look forward to working cooperatively with the Congress to designate these special and biologically significant areas in this dramatic corner of Montana as wilderness.

S. 375

Thank you for inviting the Department of the Interior to testify on S. 375, the Good Neighbor Forestry Act. The bill authorizes the Secretary of the Interior to enter into cooperative agreements or contracts with a state forester to provide forest, rangeland, and watershed restoration and protection services on lands managed by the Bureau of Land Management (BLM). The Administration supports Good Neighbor Authority, but we believe further study and analysis are needed to better understand the interplay of state and federal contracting and labor law and regulation before expansion of the authority is authorized. We look forward to working with the committee, States, and federal agencies to develop a better understanding of the issues and to improve the bill in a manner that meets the needs of key stakeholders. We welcome opportunities to enhance our capability to manage our natural resources through a landscape-scale approach that crosses a diverse spectrum of land ownerships.

Background

The BLM is increasingly taking a landscape-scale approach to managing natural resources on the public lands. Recent drought cycles, catastrophic fires, large-scale insect and disease outbreaks, the impacts of global climate change, and invasions of harmful non-native species all threaten the health of the public lands. They also tax a land manager's ability to ensure ecological integrity, while accommodating increased demands for public land uses across the landscape. The BLM engages in land restoration and hazardous fuels reduction activities with interagency partners and affected landowners to expand and accelerate forest ecosystem restoration. The "Good Neighbor" concept provides a mechanism to facilitate treatments across the landscape, inclusive of all ownerships, and enhances relationships between Federal, state, and private land managers.

In Fiscal Year (FY) 2001, Congress authorized the U.S. Forest Service to allow the Colorado State Forest Service (CSFS) to conduct activities such as hazardous fuels reduction on U.S. Forest Service lands when performing similar activities on adjacent state or private lands. The BLM received similar authority in Colorado in FY 2004, as did the U.S. Forest Service in Utah.

The BLM used this "Good Neighbor" authority beginning in 2006 in the agency's Royal Gorge Field Office. Through an assistance agreement with the CSFS, the BLM accomplished a fuels reduction and mitigation project within and adjacent to the Gold Hill Subdivision of Boulder County. The Gold Hill Project treated a total of 372 acres of wildland urban interface consisting of 122 acres of BLM land, 27 acres of U.S. Forest Service land, and 223 acres of private land. All of these acres were identified as priorities within the Gold Hill Community Wildfire Protection Plan. Through the assistance agreement, the CSFS delineated the areas to be treated within the Gold Hill Project, managed the project, administered contracts, monitored firewood removal, and monitored forestry and fuels projects on BLM and U.S. Forest Service lands. No timber was harvested or sold from the BLM lands. The BLM and the U.S. Forest Service conducted the project planning and fulfilled NEPA requirements on their respective lands.

The project area consisted of small parcels of Federal lands interspersed with state and private lands. Since all the landowners used the same State contract, treatments were accomplished concurrently and with consistency in treatment methods, thereby achieving hazardous fuels reductions across a larger area to reduce the risk of wildfire. Efficiencies were also realized by utilizing a single contractor to treat one large project area. The BLM also realized savings in personnel resources. Although the project area was located nearly 200 miles from the BLM field office, CSFS personnel were in the immediate vicinity and were able to conduct the field work for the BLM. In addition, the CSFS regularly worked with private landowners in the area and easily gained access through the private lands to conduct work on the Federal lands, which allowed the work to begin quickly. Simplified state contracting procedures also expedited the project. The project was completed in 2008.

A February 2009 GAO report examined state service contracting procedures regarding transparency, competitiveness, and oversight, and found that the state requirements generally addressed each of these areas. (GAO-09-277). The GAO issued two recommendations to the BLM: 1) To develop written procedures for Good Neigh-

bor timber sales in collaboration with each state to better ensure accountability for federal timber; and 2) To document how prior experiences with Good Neighbor projects offer ways to enhance the use of the authority in the future and make such information available to current and prospective users of the authority. The BLM's Forest and Woodlands Division completed the final corrective action plan incorporating these suggestions in September of 2010.

S. 375

S. 375 provides for the Secretaries of Agriculture and Interior to enter into cooperative agreements and contracts with state foresters in any state west of the 100th meridian, to provide forest, rangeland, and watershed restoration and protection services on National Forest System land or BLM land. The success that the BLM experienced in using the Good Neighbor authority in Colorado as a cross-boundary management tool would be available under S. 375 to all BLM-managed lands throughout the west. The authority provided by the bill is discretionary; each BLM office could determine on a case-by-case basis whether or not the Good Neighbor authority is a desirable option. All Good Neighbor projects would be undertaken in conformance with land use plans and comply with the National Environmental Policy Act, if applicable.

Section 3(a) of the bill would authorize the Secretary to enter into a cooperative agreement or contract with a state Forester. For clarification, the BLM suggests an amendment to the language to add "notwithstanding the Federal Grants and Cooperative Agreements Act."

The provisions in section 3(b) authorize services to include activities that treat insect-infected trees; reduce hazardous fuels; and any other activities to restore or improve forest, rangeland, and watershed health, including fish and wildlife habitat. There is no requirement that the BLM-managed lands be adjacent to state or private lands to be eligible for services. This expansion of authority could be beneficial in watershed restoration projects where state and Federal lands might not be immediately adjacent to one another, but are within the same watershed. Accordingly, this expanded authority could enhance the effectiveness of landscape-scale treatment.

Conclusion

Thank you for the opportunity to testify about Good Neighbor Authority and S. 375. The Department of the Interior and the BLM welcome opportunities to engage in efforts that can advance cooperation of all landowners, improve the effectiveness of restoration and fuels treatments, and provide cost-effective tools for managing natural resources. I would be happy to answer any questions.

S. 714

Thank you for the opportunity to testify on S. 714, the Federal Land Transaction Facilitation Act (FLTFA) Reauthorization of 2011. The Administration strongly supports S. 714 and encourages the Congress to move swiftly to reauthorize the FLTFA. Over the past decade, the Department of the Interior has made a number of important acquisitions using the FLTFA's provisions. Reauthorization of the FLTFA will allow us to continue to use this critical tool for enhancing our Nation's treasured landscapes.

Background

Congress enacted the FLTFA in July of 2000 as Title II of Public Law 106-248 (formerly referred to as the "Baca Bill"). FLTFA expired on July 25, 2010. At that time, the balance in the FLTFA account (approximately $50 million) was transferred to the Land and Water Conservation Fund. FLTFA was reauthorized through July 25, 2011, by the 2010 Supplemental Appropriations Act (PL 111-212). Since the one-year extension became law, approximately $3 million from the sale of 800 acres of public lands has been deposited into the FLTFA account.

Under the FLTFA, the Bureau of Land Management (BLM) may sell public lands identified for disposal through the land use planning process prior to July 2000, and retain the proceeds from those sales in a special account in the Treasury. The BLM may then use those funds to acquire, from willing sellers, inholdings within certain Federally designated areas and lands that are adjacent to those areas that contain exceptional resources. Lands may be acquired within and/or adjacent to areas managed by the National Park Service (NPS), the U.S. Fish and Wildlife Service (FWS), the U.S. Forest Service (FS), and the BLM. To date, approximately 26,600 acres have been sold under this authority and approximately 18,000 acres of high resource value lands have been acquired.

The 2012 Budget includes a proposal to eliminate FLTFA's July 2011 sunset date and allow lands identified as suitable for disposal in recent land use plans to be sold using the FLTFA authority. FLTFA sales revenues would continue to be used to fund the acquisition of environmentally sensitive lands and the administrative costs associated with conducting sales.

The 1976 Federal Land Policy and Management Act (FLPMA) provides clear policy direction to the BLM that public lands should generally be retained in public ownership. However, section 203 of FLPMA allows the BLM to identify lands as potentially available for disposal if they meet one or more of the following criteria:

- Lands consisting of scattered, isolated tracts that are difficult or uneconomic to manage; or
- Lands that were acquired for a specific purpose and are no longer needed for that purpose; or
- Lands that could serve important public objectives, such as community expansion and economic development, which outweigh other public objectives and values that could be served by retaining the land in Federal ownership.

The BLM identifies lands that may be suitable for disposal through its land use planning process, which involves full public participation. Before the BLM can sell, exchange, or otherwise dispose of these lands, however, it must undertake extensive environmental impact analyses, clearances, surveys, and appraisals for the individual parcels.

Before the enactment of the FLTFA, the BLM had the authority under FLPMA to sell lands identified for disposal. The proceeds from those sales were deposited into the General Fund of the Treasury. However, because of the costs associated with those sales (including environmental and cultural clearances, appraisals, and surveys), few sales were undertaken. Rather, the BLM relied largely on land exchanges to adjust land tenure. This can often be a less efficient process.

Once the FLTFA was enacted, the BLM developed guidance, processes, and tools to complete the FLTFA land sales. Working cooperatively, the BLM, NPS, FWS, and FS then developed guidance, processes, and tools for subsequent FLTFA land acquisitions. The BLM markedly increased sales under the program over the last few years. Recent market conditions, however, have led to less robust sales than earlier in the life of the program.

Since it was enacted, the BLM utilized FLTFA to sell 327 parcels previously identified for disposal totaling 26,437 acres, with a total value of approximately $116.3 million. Over the same time period, the Federal government acquired 36 parcels totaling 18,135 acres, with a total value of approximately $49.2 million using FLTFA authority.

Some lands identified for disposal and sold through the FLTFA process are high-value lands in the urban interface. For example, in 2007 the BLM in Arizona sold at auction a 282-acre parcel in the suburban Phoenix area for $7 million. However, many of the lands the BLM identified for disposal prior to July 2000 that are eligible under FLTFA are isolated or scattered parcels in remote areas with relatively low value. Frequently, there is limited interest in acquiring these lands, and the costs of preparing them for sale may exceed their market value.

Since the inception of the FLTFA, the BLM has deposited $111.7 million into the Federal Land Disposal Account. That figure represents 96% of the total revenues from these sales. Approximately $4.6 million has been transferred to the states in which the sales originated, as provided for in individual Statehood Acts (typically 4% of the sale price).

Using the FLTFA proceeds, the BLM, NPS, FWS, and FS have acquired significant inholdings and adjacent lands from willing sellers, consistent with the provisions of the Act. For example, in November 2009 the BLM used FLTFA funds to complete the acquisition of 4,573 acres within the BLM's Canyons of the Ancients National Monument in southwest Colorado. These inholdings encompass 25 documented cultural sites, and archaeologists expect to record an additional 700 significant finds. The acquisition also included two particularly important areas: "Jackson's Castle," which is archaeologically significant; and the "Skywatcher Site," a one-of-a-kind, 1,000-year-old solstice marker. The following are a few additional examples of important FLTFA acquisitions:

- Elk Springs Area of Critical Environmental Concern (ACEC), New Mexico/BLM.—This 2,280-acre acquisition protects critical elk wintering habitat.
- Hells Canyon Wilderness, Arizona/BLM.—A 640-acre parcel constituting the last inholding within the Hells Canyon Wilderness, located just 25 miles northwest of Phoenix.

- Grand Teton National Park, Wyoming/NPS.—This small (1.38 acres), but critical inholding within the Park was acquired and protected from development.
- Zion National Park, Utah/NPS.—A combination of FLTFA and Land and Water Conservation Fund monies were used to acquire two 5-acre inholdings that overlook some of the Park's outstanding geologic formations. These areas were previously target for development.
- Nestucca Bay National Wildlife Refuge, Oregon/FWS.—This 92-acre dairy farm on the outskirts of Pacific City, Oregon, was slated for residential development and was acquired to protect a significant portion of the world's population of the Semidi Islands Aleutian Cackling Goose.
- Six Rivers National Forest, California/FS.—Over 4,400 acres were acquired within the Goose Creek National Wild and Scenic River corridor, preserving 4 miles of the river known for dense stands of Douglas fir, redwoods, and Port Orford cedar.

S. 714

S. 714 would both extend and enhance the original FLTFA through four major changes.

First, the bill extends the program for 10 years to July 2021. This change would enable the BLM to plan for and implement this program on a long-term basis.

Second, under the original FLTFA, only lands identified for disposal prior to July 25, 2000, were eligible to be sold. S. 714 modifies that restriction by allowing any lands identified for disposal through the BLM's land use planning process by the date of enactment of S. 714 to be sold through the FLTFA process. The Department supports this change, which recognizes the usefulness and importance of the BLM's land use planning process. However, we would recommend eliminating this restriction rather than simply moving the date forward.

The BLM currently oversees the public lands through 159 Resource Management Plans (RMPs). Since 2000, the BLM has completed 75 RMP revisions and major plan amendments. Additionally, the BLM is currently involved in planning efforts on 45 new RMPs, all of which the agency expects to complete within the next three to four years. Planning updates are an ongoing part of the BLM's mandate under FLPMA. In this process, the BLM often makes incremental modifications to the plans, and identifies lands that may be suitable for disposal. All of these planning modifications or revisions are made in compliance with the National Environmental Policy Act, and are undertaken through a process that invites full public participation. If the enactment date is again utilized as the cut-off date, the BLM may, in a few years, face the same challenges it does with the program today. Many of the high-valued lands have been sold and the remaining eligible lands are isolated or scattered parcels in remote areas with relatively low value. Eliminating the restriction to provide more flexibility on the lands eligible for FLTFA will allow the BLM to maintain a more consistent program over time.

Third, the original FLTFA allows acquisitions of inholdings within, or special lands adjacent to Federal units only if those units existed prior to July 25, 2000. S. 714 eliminates this limitation as well, and we support this change. In March of 2009, President Obama signed the Omnibus Public Land Management Act of 2009 (Public Law 111-11) into law, which designates or expands numerous wilderness areas, wild and scenic rivers, national park units, and other units of the BLM's National Landscape Conservation System. S. 714 will allow the use of FLTFA funds to acquire inholdings within these areas and areas designated by other legislation enacted after July 2000.

Finally, S. 714 adds exceptions to the FLTFA in recognition of specific laws that modify the FLTFA with respect to some particular locations. The FLTFA does not apply to lands available for sale under the Santini-Burton Act (P.L. 96-586) and the Southern Nevada Public Land Management Act (P.L 105-263). S. 714 additionally exempts lands included in the White Pine County Conservation, Recreation, and Development Act (P.L. 109-432) and the Lincoln County Conservation, Recreation and Development Act (P.L. 108-424). Finally, a number of provisions of the Omnibus Public Land Management Act of 2009 (P.L. 111-11) modify FLTFA at specific sites or for specific purposes. These exceptions are also captured by S. 714.

Conclusion

Thank you for the opportunity to testify in strong support of S. 714, the Federal Land Transaction Facilitation Act Reauthorization of 2011. By extending the FLTFA, the Congress will allow the BLM to continue a rational process of land disposal that is anchored in public participation and sound land use planning, while

providing for land acquisitions to augment and strengthen our Nation's treasured landscapes.

S. 730

Thank you for the opportunity to provide the views of the Department of the Interior (Department) on S. 730, the Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act. My comments are limited to the programs administered by agencies of the Department, including the administration of the Alaska Land Conveyance Program by the Bureau of Land Management (BLM). The Department defers to the U.S. Forest Service on the important policy issues affecting the management of National Forest System lands.

S.730 would amend the Alaska Native Claims Settlement Act (ANCSA) to allow the Southeast Alaska Native Corporation (Sealaska) to select and receive conveyance of federal lands from areas of Alaska outside of originally designated withdrawal areas. The Department supports the goals of completing ANCSA entitlements as soon as possible so that Alaska Native corporations, including Sealaska, may each have the full economic benefits of completed land entitlements. While the legislation addresses several concerns the Department raised during consideration of earlier legislation, the Administration continues to have concerns. We look forward to working with the Congress, Sealaska, and community partners and interests to fulfill entitlements. Over the past year, the BLM has maintained an accelerated pace in administering the ANCSA land conveyance program; at mid-Fiscal Year 2011, the BLM has surveyed and patented to Native corporations 61 percent of ANCSA entitlements and has granted interim conveyance (all right, title, and interest of the federal government) on an additional 34 percent of entitlements.

Background

The BLM is responsible for expediting federal land conveyances to individual Alaska Natives, Native corporations, and the State of Alaska under four major statutes: the Alaska Native Allotment Act of 1906, the Alaska Statehood Act of 1958, the Alaska Native Veterans Allotment Act of 1998, and ANCSA. When these land conveyances are completed, about 150 million acres, or approximately 42 percent of the land area of Alaska, will have been transferred from federal to State and private (Native) ownership.

ANCSA established a framework under which Alaska Natives formed private corporations to select and receive title to 44 million acres of public land in Alaska and receive payment of $962.5 million in settlement of aboriginal claims to land in the State. Sealaska is one of 12 regional corporations formed under ANCSA.

S. 730

S. 730 would amend ANCSA to allow Sealaska to select and receive conveyance of lands outside of the original withdrawal areas established by the Act in 1971; specifically, to select and receive conveyance of lands in the Tongass National Forest other than those that were originally available for selection.

The legislation also establishes timeframes for Sealaska to identify and select the lands it desires and for the Department to substantially complete the conveyance. The Department interprets this as meaning an interim conveyance of the lands could be issued. Section 4(a) of S. 730 directs the Secretary of the Interior to work with Sealaska to develop a "mutually agreeable" schedule to finalize conveyance.

The Department notes that S. 730, if enacted, may set a precedent for other corporations to seek similar legislation for the substitution of new lands. We also note that the if S. 730 is enacted as proposed and the Tongass Forest Management Plan is modified, the U.S. Fish and Wildlife Service may have to review its findings not to list the southeast Alaska distinct population segment (DPS) of Queen Charlotte goshawk and the Alexander Archipelago wolf.

Conclusion

The BLM in Alaska has made significant progress since the enactment of the Alaska Land Transfer Acceleration Act, which gave the BLM tools to expedite land conveyances. We look forward to continuing to work with all of the Alaska Native corporations, other agencies and interests to fulfill the ANCSA entitlements. Thank you for the opportunity to testify. I will be glad to answer any questions.

Senator WYDEN. Ms. Burke, thank you. Let's begin with Senator Murkowski.

Senator MURKOWSKI. Thank you, Mr. Chairman. Thank both of you for your testimony here this afternoon.

Mr. Sherman, let me start with you. Before I begin the question I appreciate that both of you have committed clearly to finally and fully resolving the issue of the entitlement of Sealaska lands. I think we all recognize that this must happen.

You state, Ms. Burke, that it is complex. We appreciate that. We know that full well, as do many of the folks from Sealaska that are seated behind you today. But I think it is important to recognize that it is in everyone's best interest that we finally come to closure on this issue and move these entitlements forward.

Mr. Sherman, let me ask you. Because you have stated in your testimony and in your written testimony that you're concerned that the bill as drafted is going to take away too much second growth timber, that timber that is age 50 and older and thus, somehow or other hamper the Forest Service ability to transition to this young growth harvesting strategy that we're certainly working toward. You maintain that these lands are critical to this.

If you look at the suitability standards that are out there, if Sealaska were able to select every single acre within the 80,000 acres of selection area that's outlined in the bill currently and we recognize that they're not going to have that ability because we've got acreage that is set aside for future sites, sacred sites and the like. But even if they were to have access to the full 80,000, Sealaska will still get just 13,266 acres of old second growth which is about 9 percent of the 149,000 acres of age 40 and older second growth that's currently in the forest. So in other words, the Forest Service retains about 91 percent of the old second growth.

So the question is how does your plan, this transition plan, not have enough timber remaining to support this transition to the second growth strategy?

Mr. SHERMAN. Senator Murkowski, just for clarification. You're talking about the selection outside of the withdrawal areas, is that correct? You're talking about Sealaska.

Senator MURKOWSKI. That is correct. As outlined in the draft that we have before us today.

Mr. SHERMAN. In my discussions with the Forest Service, the lands that they have been targeting, targeting for suitability for the next 10 to 15 years for the current milling opportunities in Southeast Alaska are certain forests. These are forests which, from an older growth standpoint, may be older than 40 to 50 years. They may be in a range beyond 50 years. These are the best areas for older second growth that we were trying to make available to local mills. They also contain areas of productive old growth that they were targeting for the next 10 to 15 years.

These areas that they were targeting to meet the needs of local mills significantly overlap with those areas and what Sealaska has identified. So you have to be very careful in looking at which old growth areas and which productive—excuse me, which older, young growth areas you're talking about and the ages within that, because typically trees that are 80 to 100 years old under the CMAI index are capable of being harvested. So if a tree is 40 to 50 years old that may not be an area that we are yet looking at. That may be an area that would be targeted 20 or 30 years from now.

Senator MURKOWSKI. What I'm still struggling with is the reality that under this proposal even if Sealaska were able to harvest the

full 80,000 acres that we are talking about, which again, we concede we are not because we're taking off the table a fair amount of acreage due to the future site and the sacred sites. Again, it still leaves the Forest Service with 91 percent, 91 percent of the older, second growth.

You say, you know, I need to appreciate the overlap. Believe me, we appreciate the overlap because we've been pouring over these maps for months, if not years at this point. I understand the position that the Forest Service has taken that we want to try to transition to this second growth.

But again, in just understanding what the Forest Service will have available to them even after this legislation moves forward and Sealaska is able to select within these areas. It stuns me to think that we're still in a position where you are saying you can't implement your plan. It causes me to wonder whether or not your plan is feasible in the first place.

Let me ask you about the old growth preserves. Because you bring up the commitment to protect the land and mention the old growth preserve areas to protect the habitat for the goshawk and for the Alexander Archipelago wolf. The question that I have here, again, it seems almost basic to me when we're talking about protection of habitat. Within the proposal that we have before us now, if Sealaska selects inside their existing box, they're going to be disturbing about 34,000 acres of existing old growth, reserve habitat LUDs.

Now you've got 34,000 acres there. But under the bill that we're proposing now and working through, the timber development areas that are open to Sealaska selection is just over 10,500 acres contained in the old growth LUDs. So the question is, isn't it better from an environmental perspective and certainly for the critical habitat perspective to allow the proposal that we have before us?

Because if Sealaska were limited to selecting within the box there would be more critical habitat that would potentially be disturbed than under the scenario that we are putting forward with this legislation. Would you agree?

Mr. SHERMAN. Senator Murkowski, all old growth reserve areas are not necessarily the same. It's important that we first emphasize that the old growth areas within the box were reviewed very carefully by a team of wildlife specialists, State, Federal, and so forth, to anticipate if those areas were developed what would be the impact on these species. That was evaluated very carefully.

In the meantime, with the Tongass Land Management plan, the areas outside of the box which were chosen for old growth reserve were also evaluated very carefully. Now the problem is within the box, as I understand it, if you develop certain old growth reserve areas there, there are alternate sites to which you could go to designate as old growth reserve which would help to protect the species. When you go outside of the box, you have very key parcels of habitat and connectivity of habitat which the Fish and Wildlife service have placed great importance on. In many of these areas we do not have alternative locations that we can go to, to provide comparable habitat that would work for the purposes that are intended.

So we have to look very carefully at what parcels were focused on. What those parcels do in terms of protecting the species or not. Again, I think this is a subject that needs greater attention. It's a subject that we need to sit down and review very carefully with Sealaska and with wildlife experts because the worst thing that could happen here is that the species would be listed or we would have litigation over this issue.

Senator MURKOWSKI. We would certainly agree. I would have hoped that you would have had those full discussions as I believe we absolutely have this issue. I take it back toyou. You've got a situation where you're either disturbing 10,000 acres or 35,000 acres.

It would seem to me that the compromise that Sealaska has put forward in an effort to protect these old growth preserves, the proposal that Sealaska is advancing is one that, in fact, would provide for greater habitat protection. Thus, that should keep the lawsuits at bay or the listings at bay, which of course, is something that we would all hope that we're going to do.

Mr. SHERMAN. If I could just respond briefly. I again would just urge this committee to look at this issue carefully because I do not believe this question of the development of old growth reserves outside of the box, the sites that have selected, there could be very significant consequences from doing this. We need to study this carefully with Sealaska and with this committee to understand what the effect of that would be.

Senator MURKOWSKI. Again, I'd like to go into the extent that the studies have already been conducted. It's my understanding that there has been significant time and effort to do just that. You also mention, if I may with your indulgence, Mr. Chairman, just a couple more questions. Because I know that others want to speak as well.

The impact on the existing mills. It is one of the concerns as we talk about this transition from second growth to the young growth strategy. It is an issue that has come up. I have brought it up with the Secretary of Agriculture. We have had discussions about it.

But our reality is that if, in fact, we are not able to come to a resolve with this Sealaska legislation the existing remnants of the timber industry in Southeast Alaska are just not going to survive. They won't be able to transition to this new strategy that we are talking about putting in place. This is why I think you hear the continued plea for urgency in resolving this because as I mentioned in my opening, the timber industry in Southeast Alaska is hanging on a thread.

It's imperative that we figure out how we allow for Sealaska to keep working because as they keep working, they keep all of the other operators working too, whether it's the folks that are putting the explosives in or building the road or milling the logs. I mean, there is an effort there that is very, very tenuous right now. I think we all appreciate that. So we talk a lot about transitioning but the reality is we might not have anybody who makes it through that transition.

I want to ask one last question for you. This is about the in holdings. This is apparently the first time that the Forest Service has expressed some concerns about the increase of in holdings within the forest. But given that the Forest Service, as I understand it,

controls four-fifths of the Tongass, the Park Service has most of the remaining fifth.

You've got 1 percent then that essentially is in private holdings. You've got 1 percent in native corporation holdings. How can Sealaska get any remaining lands under ANCSA without producing in holdings?

Then, again, to take it back to either the proposal before us or what you would have if they were just limited to selecting within the existing selection boxes, if they stay within the existing box they've identified more than 53 tracts to take. But under this bill it would be 33 tracts to take.

You bring up the issue of in holdings and yes, there are going to be in holdings. But there would be more if we don't resolve this through the suggestion that we have with this legislation. Again, when you're dealing with almost 100 percent of the area that is owned by the Federal Government, one way, shape or form or another, it's pretty difficult to provide for these entitlements without creating an in holding.

Mr. SHERMAN. Senator, I think it is very important for Sealaska and the Forest Service to continue their dialog on these issues. They have been talking about these issues.

Senator MURKOWSKI. When you say that we continue the dialog, how long do we need to dialog?

Mr. SHERMAN. We need to continue this. I can't set a time but I do think we are prepared to actively work on these issues with Sealaska. These inholdings typically around the country have proven very problematic to the Forest Service. We try to discourage inholdings rather than creating inholdings.

I do think that within the box there were earlier evaluations of those sites, to some extent, that were undertaken. The Forest Service has done certain planning around that. I'm not an expert on which sites were selected or not.

But we need to have a ongoing dialog with Sealaska about which of these sites could work or not work. Where do we have access issues? Where do we have boundary and liability issues?

There's a range of questions that do come up when you consider in holdings. Again, I think it's important to do this correctly. Because if we don't we will face certain consequences down the road.

Senator MURKOWSKI. I would just suggest to you—and I have taken twice my time, I appreciate the indulgence of the chairman and the ranking member here—that we have been working aggressively on this legislation for the past year. It's kind of you to say that we need to continue the dialog. But at some point in time there has to be a resolve to this issue.

You have acknowledged that. Ms. Burke has acknowledged that. We cannot keep just talking this to death because 40 years have passed. Sealaska has not been able to deal with their entitlement issue.

So I think the time for talking was this past year when we were out there seeking comment, not only from within the communities but from within the agencies themselves. So if you're truly committed to resolving this as an issue let's make this happen. But let's not allow this to drag out because I'm not going to be here 40 years from now. It's not the direction that we need to take.

Mr. Chairman, thank you for letting me continue.

Senator WYDEN. Thank you, Senator Murkowski. We will be working with you on your legislation.

Senator Barrasso.

Senator BARRASSO. Thank you, Mr. Chairman.

Mr. Sherman, I stated in my opening comments that I appreciate your support of the Good Neighbor authority. In your testimony you said the Good Neighbor authority has produced great results in Colorado and Utah. The GAO report you spoke about identifies numerous good things happen on the ground in those two States.

You had the qualifier. You said that you believe further study and analysis is needed to better understand the interplay of needs, State and Federal contracting, labor law regulation before expansion of the authority is authorized. So, I mean, I'm puzzled here.

Given the proven, positive results what specific, additional analysis is really needed and what don't we know that we need to find out?

Mr. SHERMAN. Senator Barrasso, I don't think this will involve an extensive analysis. But I think there needs to be some further discussion. These are Federal lands. They're Federal contracts. They're Federal agencies that are involved.

Yypically when we do work on Federal land we utilize Federal labor and wage and safety mechanisms and regulations and so forth. So the question arises as to how we would apply those in these types of cases. We need to review.

As we take a pilot program and move it from two States to 16 States, this question comes up. We need to sit down with you and others and talk about how we would incorporate these laws and regulations into whatever work we do with State foresters.

Senator BARRASSO. Is that analysis being done now? There are things happening on the ground in Wyoming. We would like to get this addressed immediately. It just seems that delay after delay with the pine beetle and other issues that——

Mr. SHERMAN. I think it's incumbent upon us to work actively with you in the immediate future to address these questions.

Senator BARRASSO. We'd appreciate that. Because I don't—do you know of any labor law violations or contractual concerns that have taken place in either Utah or Colorado?

Mr. SHERMAN. I am not aware of any specific situations that have come up. I haven't contrasted their State laws with Federal laws. But I think we can get to the heart of this quickly and come up with a solution.

Senator BARRASSO. I'd appreciate that so we can move ahead in a quick way. I don't want to be in the same situation as Senator Murkowski, talks about the years of delay even though that the discussion continues.

So I'd have the same question for you Deputy Director Burke. Your testimony, I kind of came to the same conclusion. You were very positive about the program but you said further study and analysis is needed to better understand the interplay of some of these things.

I'm trying to find out why we're keeping a successful program from being a useful tool in landscape management today. So any

additional thoughts on what your time would be and it would all work together on this?

Ms. BURKE. Senator Barrasso, it is not our intent to delay. What we do believe is a very useful tool. I mean, our ability to manage the landscape effectively.

While we echo the concerns that the Department of Agriculture has noted, we are eager to work with you to move this Authority forward.

Senator BARRASSO. This is, kind of, the third Congress that I brought this piece of legislation. So I'd hope that we could truly move ahead in an expeditious manner.

Some of the bills that we're looking at today and looked at last time we considered previously, in previous Congress, and so most of the testimony we heard last week or this week is somewhat repeated. Could both of you just provide me with some analysis of each of today's bills showing how they may have changed from the last session? Because there have been some changes in the bills from the last session.

Not right now, but get some written response on that.

I wanted to ask also about the issue of wilderness designation. That has a significant impact on local economies and the way of life in Western communities. So, Mr. Sherman, I want to talk to you about S. 268, based on a collaboration.

It was written in a collaboration between the timber industry, environmentalists. You know, I always have concerns that there may be other groups out there. Such as snowmobilers, ranchers, who may have strong reservations about S. 268 and the impact that it will have on the local economy.

I know in the third panel we're going to hear testimony. I was reading through the testimony of Walter Congdon from Montana Cattlemen's Association in Southwestern Montana. It's interesting testimony because he actually goes through the bill line by line and said, you know, add these words or take these words. It was very impressive work done.

He has some suggested changes. I'm wondering if the agency sees a need to reach greater consensus before the bill moves forward?

Mr. SHERMAN. I think it's important to try to find consensus and collaboration where we can. My understanding is that progress has been made on that. This exchange between Senator Tester and Senator Risch seems to indicate that there has been progress there. Hopefully that eliminates some of these ongoing concerns.

Senator BARRASSO. Then a final question has to do with costs of implementing both S. 268 and S. 220, which was the chairman's bill from last week. The impact that may have on other National Forests because both of these bills include large authorizations to pay for the timber sales to be produced by the Forest Service. The bills also include language stating the funding can't be taken from other forest regions to pay for the new timber to be produced.

So last week Mary Wagner testified that the Forest Service had budgeted approximately 13 million dollars a year, I think, for the timber sale program in Eastern Oregon. But S. 220 called for a $50 million authorization to pay for the timber sales. Then S. 268 calls for, I think, 7,000 acres of harvesting a year for 15 years.

So I'm trying to picture this and figure out how much funding does the region receive for the current timber sale program on the forests involved? In these bills, if they're signed into law as currently written, how is the agency going to meet commitments it's making by testifying in favor of this bill verses that bill? How is the money going to work, you know, are there other non timber programs which will be used to fund this new timber sale commitment that you're agency has testified in favor of?

I'm just trying to see if you've, kind of, pictured the whole thing together?

Mr. SHERMAN. We obviously will need to have appropriate budgetary allotments to do the work that is intended in these bills. In the case of 268, it does provide that the resources are not going to be taken from other regions. But it is our hope that through the President's 2012 budget with the Forest Service that we will get sufficient resources to do good work under both of these bills.

But it is dependent upon our receiving sufficient budgetary allocations to make this work happen.

Senator BARRASSO. Thank you. Thank you, Mr. Chairman.

Senator WYDEN. I thank my colleague. Just so we're clear on this point. We got into it with respect to my legislation as well, the Eastside Forest bill has exactly the same language that we're talking about with Senator Tester.

What I think is particularly important as we try to go forward with a couple of these major demonstration efforts. Mary Wagner outlined this, I think, very clearly, very succinctly. We are going to be building on work that is already being done.

In other words this is not an effort to somehow unravel a variety of projects that are already taking place in a collaborative area. This is an effort to in effect build on what is already taking place. I know you share that view, Mr. Sherman. Mary Wagner laid it out very well.

We'll be working very closely with Senator Barrasso on that point. It's an important one for the West.

We've got Senator Tester here. We welcome him. Please go ahead with the questions that you'd like to ask, Senator Tester.

Senator TESTER. Thank you, Mr. Chairman. I appreciate your flexibility. Before I ask, Mr. Sherman, a question I would just to respond to Senator Barrasso's concerns.

It's been a session or two since I was on this committee, but the last time I was on this committee the Forest Service spent about half their budget fighting fires. I would submit that this bill, enacted properly, could actually save money. Not only from a management standpoint, but also we have gone in the last 20 years from 26 mills, down to seven. That's a loss of an economic base that's critical for an area that's between 15 and 25 percent unemployment. So we've got some opportunities to move the ball forward.

Mr. Sherman, appreciate both of you and Ms. Burke being here today. Appreciate your testimony from both of you.

Mr. Sherman, from what I've heard in your testimony from the Secretary's letter that I talked about in my opening statement. From the Secretary's visit to Montana last year would it be fair to

say that the USDA is supportive of my effort in Senate bill 268, the Forest Jobs and Recreation Act?

Mr. SHERMAN. Senator, we are very supportive of the concepts and the goals in this bill. We are excited about moving forward on a number of these projects, as we are doing. A lot of the work that we're doing in 2011/2012 is in the spirit of what you're talking about in this legislation. We want to continue to complete our work with you on these few remaining issues that there are.

Senator TESTER. I appreciate that. Just kind of a follow up because you brought up a follow in to my next, a lead to my next question and that is, is it the Forest Service is starting to work toward some of the goals of this bill as we speak. Can you give me a little more information about what kind of region wide, long term stewardship contracting you folks are moving toward as we speak?

Mr. SHERMAN. Yes. For example, in the Beaverhead-Deerlodge area during FY 2012 we are projecting work on a 5,200 acre parcel which is a 42 percent increase in restoration acreage on the forest and a 67 percent increase resulting in the volume that would be coming off that forest. With the Southwest Crown of the Continent we would be, through the CFLRA moneys that have been allocated, we would be more than tripling the restoration acreage and resulting volumes.

So that's the scale and the scope of work that we are hoping to do under the President's FY 2012 budget.

Senator TESTER. Thank you, Mr. Chairman. Thank you, Mr. Chairman. As I said in my opening remarks I hope we can get this bill through this committee. I know you have a bill with some of the same goals.

Hopefully we can get that through at the same time. Get it to the Senate floor. Get a good solid vote on both of them. Hopefully get them to the President's desk and give the Forest Service some tools by which to manage our forests in a more realistic way.

Thank you.

Mr. SHERMAN. Thank you.

Senator WYDEN. Thank you, Senator Tester. Mr. Sherman, I would only say and we've discussed this that there is no question that the challenges of new forestry are going to be nationwide. There's no question about that.

If we were starting from scratch, if we were sitting there with a fresh slate. There wasn't anything on the books one would look at the organic, you know, statute and one would seek to write a bill with sufficient flexibility so that Montana could go forward with its approach and Oregon could go forward with its approach. The challenge, of course, is we don't have that kind of time.

You look at the Eastside of Oregon. I think Senator Tester feels the same way. We have a handful of mills left on the Eastside of Oregon.

If we lose that infrastructure it is lights out on much of the rural economy of my State. We won't have the infrastructure, for example, to go forward with the ground breaking opportunities we have in terms of environmental protection. I said this morning it was a program on alternative fuels. People wanted to talk mostly about vehicles. But I'm not going to go to any program on alternative fuels and not talk about biomass.

Oregon is part of this project. We're looking to be the Saudi Arabia of biomass. We're going to have some opportunities by, in effect, bringing forward this new, sort of, approach. I call it a healthy forest can equal a healthy, you know, economy that I think is going to be very, very helpful for the agency in the years ahead.

So we'll be following up with you on that, both the Montana bill and the Oregon bill. We've appreciated your working with us. Let's let you have the last word on these issues should you choose to.

Mr. SHERMAN. Senator, I think all of us at USDA and the Forest Service share your feeling about the urgency of moving forward in the areas that we're talking about. So we look forward to working with you. I'm sure we'll be discussing many of these issues in the near future with the committee and moving these bills forward in a way that works for everyone.

Thank you.

Senator WYDEN. Very good. Ms. Burke, did you have anything you wanted to add?

Ms. BURKE. No, thank you.

Senator WYDEN. Alright. We thank you both. We'll excuse you both at this time.

Let's see. We have one panel of folks from Alaska and Montana. We want to welcome them.

Mr. Mallott, Ms. Poelstra, I hope I'm pronouncing that right, Mr. Sherman Anderson and Mr. Wally Congdon.

We're glad all of you are here. Folks from other parts of the country often don't understand what a long trek it is to make it from the West to the Capitol. I was home last weekend and I was counting it up on Monday. I spent almost as much time in the air as I was able to spend on the ground at home. so we really appreciate everybody coming out.

We're going to make your prepared remarks a part of the hearing record in their entirety. So if you could summarize your principle views. I know my colleague from Alaska and my colleague from Montana are going to have questions for folks. We'll make your prepared statements a part of the record.

So why don't we begin with you, Mr. Mallott.

STATEMENT OF BYRON MALLOTT, BOARD MEMBER, SEALASKA CORPORATION, JUNEAU, AK; ACCOMPANIED BY JAELEEN ARAUJO, SEALASKA GENERAL COUNSEL

Mr. MALLOTT. Thank you, Mr. Chairman. I'd like to mention joining me at the table is Jaeleen Araujo, who is Sealaska's General Counsel, who is also a tribal member shareholder and she'll be able to assist me.

Senator WYDEN. Very good.

Mr. MALLOTT. OK. You can't help but be influenced by what one hears during a hearing already like this that has mentioned legislation that is truly important to you. So my remarks are going to be a bit different than I had originally planned.

I attended, this past weekend, the gathering at the mouth of the Alsek River in the Tongass National Forest and the Glacier Bay National Park. The river essentially bisects Forest Service and National Park lands. The purpose of the gathering and I must say, hosted by the National Park Service and the U.S. Forest Service,

who are very gracious and supportive and provided significant assistance, was to celebrate the finding after a century of loss of a clan village, the people of Dry Bay, the Delta of the Alsek River.

In the past 5 years, five tribal houses, clan houses, were found, at least the archeological remains. The houses were identified by name. The stories that relate to them are still extant within our oral tradition, our oral history. The celebration was to recognize that something hugely important had been brought back.

I mention that because in past hearings I have had the opportunity to appear and I have worn, for example, this vest and this pendant which is indicative, which represents my clan symbol. Some have jeered at that and said why is that done in this day and age and done so in the press in relation to the Sealaska bill.

There was a time, Mr. Chairman, when in 1908 the U.S. Government created the Tongass National Forest. Just this Sunday, we had one of our revered leaders, Walter Soboleff, who was born in 1908 pass away. He lived that entire span.

I've had the opportunity to sit with him many, many times and discuss the history of our people on this land. We say that the Tongass is native land. When we say that, we do not say that it is exclusively native land. We would not say that.

We are citizens of the United States. We recognize that. We take that obligation very seriously. We have a huge sense of responsibility to our place and our commitment to this Nation. We know that we share the Tongass.

But at a powerful fundamental level the Tongass is a native place. Centuries and generations and literally millennia of the history of our people live in that land. We have seen our people, particularly from 1900 on, literally ripped from that land, the creation of the Tongass National Forest, the passage of a territorial, much ballyhooed, citizenship bill for Alaska native people relating largely to Southeast in which a native could become a citizen of the United States only if he or she gave up, consciously, all vestiges of who they were as native people.

That has been replete in our history. Mr. Chairman, I was there during the 1970s when ANCSA was created. It is no accident that Sealaska has only received some 300,000 acres available for selection within the Tongass National Forest because at the time there was a thriving timber industry which I wish that we had today. But there was no room for native interests other than that very miniscule, modest, less than 1 percent, at the time.

Over the years the circumstances have changed. They've been modified. What we seek today is lands that are in recognition of a current reality. To be responsive, not just to our own needs, but to the needs of this country when we talk about transitioning to second growth, when we talk about meeting the needs of the timber industry which very soon could disappear without an infusion of timber. To us, as native peoples, the Tongass is a native place in which our true worth, the fundamental respect, the fundamental recognition of the fact that we were there first. It's not by way of saying do something special for us, but just a simple recognition, a sense of respect.

I was at a gathering in Hawaii very recently. In every instance, principle speakers, Mr. Chairman, recognized and acknowledged and thanked the host culture.

Senator WYDEN. I don't want to interrupt you at this point.

Mr. MALLOTT. Right.

Senator WYDEN. But I know you're over time. We've got these other witnesses.

Mr. MALLOTT. Then I'm going to close very quickly.

Senator WYDEN. Wonderful.

Mr. MALLOTT. OK.

Recognize that host culture and thank them. A fundamental sense of respect and recognition that I believe is powerfully involved in this legislation. If passed will allow us to move on in ways that we never, thus far, been able to do. Thank you.

[The prepared statement of Mr. Mallott follows:]

PREPARED STATEMENT OF BYRON MALLOTT, BOARD MEMBER, SEALASKA CORPORATION, JUNEAU, AK, ON S. 730

Chairman Wyden and Members of the Subcommittee:

My name is Byron Mallott, and I am a Board Member for Sealaska Corporation, as well as a former President and CEO of Sealaska. I am from Yakutat, an Alaska Native village, and I am Shaa-dei-ha-ni (Clan Leader) of the Kwaashk'i Kwáan. My Tlingit name is K'oo deel taa.a.

I want to thank you for the opportunity to testify on behalf of Sealaska, the regional Alaska Native Corporation for Southeast Alaska, regarding S. 730, the "Southeast Alaska Native Land Entitlement Finalization Act," a bill that we refer to as Haa Aaní in Tlingit, which roughly translates into "Our Land" or "Our Place". "Haa Aaní" is the Tlingit way of referring to our ancestral and traditional homeland and the foundation of our history and culture.

Sealaska is the Alaska Native Regional Corporation for Southeast Alaska—one of 12 Regional Corporations established pursuant to the Alaska Native Claims Settlement Act ("ANCSA") of 1971. Our shareholders are descendants of the original Native inhabitants of Southeast Alaska—the Tlingit, Haida and Tsimshian people. Our ancestors once used and occupied every corner of Southeast Alaska and our cultural and burial sites can be found throughout the region. This legislation is a reflection of the significance of Our Land to our people and its importance in meeting our cultural, social and economic needs.

Forty years ago, as a young man, I traveled to Washington, DC as an advocate for the land claims of Alaska's Native people. Here I am again, forty years later, advocating for the equitable completion of Sealaska's land entitlement.

This legislation involves less than 85,000 acres from the Southeast Alaska region, a region with almost 23 million acres of land; 85% of that land is already in some form of conservation, wilderness or other protected status. Putting the Sealaska legislation in perspective, Sealaska's remaining land entitlement represents about one third of one percent of the total land mass in Southeast Alaska.

Yet this legislation also represents a significant opportunity for the public, Congress, the Administration, communities, environmental organizations and others to get it right for once in the Tongass. S. 730 achieves environmental balance, sustains jobs, ensures that Native people are viable participants in our economy, and returns important cultural and economic lands to Southeast Alaska's Native people.

S. 730 fulfills the promise of ANCSA because it:

- allows Sealaska to finalize its ANCSA land entitlement in a fair, meaningful way;
- redresses inequitable legal limitations on Sealaska's land selections by allowing it to select remaining entitlement lands from outside of withdrawal areas that, among the regional Alaska Native Corporations, uniquely constrained Sealaska;
- allows for Alaska Native ownership of sites with sacred, cultural, traditional and historic significance to the Alaska Natives of Southeast Alaska;
- creates the opportunity for Sealaska to support a sustainable rural economy and to support economic and job opportunities throughout Southeast Alaska;
- results in environmental benefits to the public because high conservation value lands important for sport and commercial fisheries, old growth wildlife reserves,

areas important for local subsistence use and municipal watersheds will remain in public ownership; and
- provides a platform for Sealaska to continue to contribute to the Southeast Alaska economy, a region that is struggling overall, especially in our rural Native villages.

As discussed in detail in my testimony below, there is a compelling, equitable basis for supporting this legislation. There is no dispute that Sealaska has a remaining land entitlement, and this legislation does not give Sealaska one acre of land beyond that already promised by Congress. Sealaska has worked closely with the timber industry, conservation organizations, tribes and Native institutions, local communities, the State of Alaska, and federal land management agencies to craft legislation that provides the best possible result for the people, communities and environment of Southeast Alaska.

One thing has become extremely clear in our effort to resolve Sealaska's land entitlement—that every acre of Southeast Alaska is precious to someone. With the vast array of interests in Southeast Alaska, there is simply no way to achieve an absolute consensus on where and how Sealaska should select its remaining entitlement. However, we truly believe that this legislation offers a balanced solution as a result of our engagement with all regional stakeholders.

OUR DILEMMA

Alaska Native Corporations were tasked by Congress in 1971 with supporting the economic future of the Alaska Native community, in part by utilizing lands returned by the United States to Native people to develop resources that would advance the social, economic and cultural well-being of our tribal member shareholders.

We believe that Congress' core promise to Alaska Natives in ANCSA was that Alaska Natives would be able to develop sustainable economies so that we could work to achieve, for ourselves, economic parity with the rest of America. Socio-economic parity was a focal point of Alaska Natives and the Land, a congressionally-mandated study published in 1968, which was a foundational predicate for Congress to act on Alaska Native land claims.

Sealaska has utilized some of its land base to develop timber resources. Of the 290,000 acres Sealaska has received under ANCSA, Sealaska has harvested timber on 189,000 acres in accordance with modern forestry and forest engineering best management practices that protect water quality, anadromous fish habitat, wildlife habitat, forest soils, and the long term productivity of the forest. Selective harvesting and even-aged harvesting has been employed. Less than half (81,000 acres) of managed forest lands have been clear cut (even-aged harvest). Sealaska's timber business has been a powerful economic engine that has helped to support the regional economy for 30 years, and seventy percent of Sealaska's timber revenues have been shared with more than 200 Alaska Native Corporations, as required under sections 7(i) and 7(j) of ANCSA. Sealaska and its subsidiaries and affiliates expended over $45 million in 2008 in Southeast Alaska. Over 350 businesses and organizations in 16 Southeast communities benefit from spending resulting from Sealaska activities. Sealaska provides over 363 full and part-time jobs with a payroll of over $15 million. Including direct and indirect employment and payroll, Sealaska in 2008 supported 490 jobs and approximately $21 million in payroll. Wherever it selects the land, Sealaska may choose to utilize some of its remaining entitlement to support sustainable forestry with a timber rotation that could sustain hundreds of jobs in our region, in perpetuity, while protecting important forest resources.

Unlike the other eleven Regional Native Corporations, Sealaska was directed to select the entirety of its entitlement lands only from within boxes drawn around just ten of the Native villages in Southeast Alaska. Forty-four percent of the ten withdrawal areas is comprised of salt water, and multiple other factors limit the ability of Sealaska to select land within the boxes. This has made it difficult to make equitable selections. No other Regional Corporation was treated in this manner under ANCSA.

To date, Sealaska has selected 290,000 acres of land under ANCSA from within the withdrawal boxes. Based on Bureau of Land Management ("BLM") projections for completion of the Section 14(h)(8) selections, and our own estimates, the remaining entitlement to be conveyed to Sealaska is between 65,000 and 85,000 acres of land. The only remaining issue is where this land will come from. Of the lands available to Sealaska today within the ANCSA withdrawal boxes:

- 270,000 are included in the current U.S. Forest Service inventory of roadless forestland;
- 112,000 acres are comprised of productive old growth;

- 60,000 acres are included in the Forest Service's inventory of old growth reserves; and
- much of the land is comprised of important community watersheds, high conservation value areas important for sport and commercial fisheries and/or areas important for subsistence uses.

The Sealaska legislation allows Sealaska to move away from sensitive watersheds and roadless areas, to select a balanced inventory of second growth and old growth, and to select most of its remaining ANCSA lands on the existing road system, preserving on balance as much as 40,000 acres of productive old growth, much of which is inventoried "roadless old growth".

WHY IS SEALASKA CORPORATION DIFFERENT?

A common misperception of the Sealaska bill is that Sealaska is required to select its Native lands from within the 10 withdrawal areas in Southeast Alaska because Sealaska "asked for it". This perception is reflected in opinion pieces in Alaska newspapers and has been shared with Members of the House and Senate Committees of jurisdiction. We therefore believe this misconception should be addressed here.

ANCSA authorized the distribution of approximately $1,000,000,000 and 44,000,000 acres of land to Alaska Natives and provided for the establishment of 12 Regional Native Corporations and more than 200 Village Corporations to receive and manage the funds and land to meet the cultural, social, and economic needs of Native shareholders.

Under section 12 of ANCSA, each Regional Corporation, other than Sealaska, was authorized to receive a share of land based on the proportion that the number of Alaska Native shareholders residing in the region of the Regional Corporation bore to the total number of Alaska Native shareholders, or the relative size of the area to which the Regional Corporation had an aboriginal land claim bore to the size of the area to which all Regional Corporations had aboriginal land claims. While each other Regional Corporation received a significant quantity of land under section 12 of ANCSA, Sealaska received land only under section 14(h) of that Act.

Sealaska did not receive land in proportion to the number of Alaska Native shareholders, or in proportion to the size of the area to which Sealaska had an aboriginal land claim, in part because, in 1968, some compensation was provided to the Tlingit and Haida Indians by the U.S. Court of Claims, which determined that the Tlingit and Haida Indians were entitled to recover $7.5 million for the taking of the 17 million acre Tongass National Forest and 3.3 million acre Glacier Bay National Park.

The 1968 Court of Claims payment should be viewed in context with the universal settlement reached by Congress just three years later that allowed for the return of 44 million acres to Alaska's Native people. With a population that represented more than 20 percent of Alaska's Native population in 1971, Southeast Alaska Natives ultimately will receive title to only 1 percent of lands returned to Alaska Natives under ANCSA.

Moreover, the 1968 settlement provided by the Court of Claims did not compensate the Tlingit and Haida for 2,628,207 acres of land in Southeast Alaska also subject to aboriginal title. These lands became an important basis for the participation of the Southeast Alaska Natives in the settlement in 1971. The court also determined the value of the lost Indian fishing rights at $8,388,315, but did not provide compensation for those rights. These rights were pursued through a property claims action before the Indian Claims Commission, originally filed in 1954, but there was no decision on the merits when ANCSA passed in 1971. The Commission subsequently ruled that ANCSA extinguished such claims and the proceeding became a moot.

Sealaska ultimately would be entitled to recover as much as 375,000 acres of land under ANCSA. However, under the terms of ANCSA, and because the homeland of the Tlingit, Haida and Tsimshian people had been reserved by the U.S. government as a national forest, the Secretary of the Interior was not able to withdraw any land in the Tongass for selection by and conveyance to Sealaska. The only lands available for selection by Sealaska in 1971 were slated to become part of the Wrangell-St. Elias National Park or consisted essentially of mountain tops.

For this reason, in the early 1970s, Sealaska requested that Congress amend ANCSA to permit Sealaska to select lands in Southeast Alaska, particularly located near its villages. Congress accomplished this by offering to Sealaska and the Southeast villages the opportunity to make its selections from within 10 withdrawal boxes established under ANCSA for the 10 Southeast Native villages recognized under that Act. In 1976, Congress granted that right.

In short, in the 1970s Sealaska sought areas from which to make selections because, at that time, Southeast Alaska's Native people had no other place to go in the Tongass, the very homeland of Southeast Alaska's Native people. The suggestion that Alaska's Native people invited their own exclusion from their Native homeland is an idea that any compassionate witness to our history should find repugnant. It was a choice between something limited or nothing at all. Hardly a choice.

S. 730 addresses problems associated with the unique treatment of Sealaska under ANCSA and the unintended public policy consequences of forcing Sealaska to select within the existing ANCSA withdrawals. The legislation presents to Congress and to this Administration a legislative package that will result in public policy benefits on many levels. S. 730 allows Sealaska to select from alternative, well defined withdrawals areas in Southeast Alaska. The legislation enables the conveyance of the final acres to which Sealaska is entitled—and not one acre more.

Historic pressures resulted in the political marginalization and spatial confinement of Native people in Southeast Alaska, documented in "A New Frontier" (discussed directly below), including federal pressures to prevent Native claims from impacting the timber industry. These pressures no longer (we hope) restrict the decisions of either the Congress or the Forest Service in pursuing a legislative solution that will enable Sealaska to finalize its Native entitlement in a manner that is both equitable and results in minimal impacts to other interests in the Tongass.

Observers unfamiliar with ANCSA sometimes suggest that the Sealaska legislation might somehow create a negative precedent with respect to Alaska Native land claims. This seems odd in the context of the history of the Tongass and its impact on the Southeast settlement. Moreover, ANCSA has been amended more than 30 times. ANCSA was and remains a congressional undertaking, and as a statute, it is organic. As observed by Senator Mark Begich at a hearing on this bill before the Senate Subcommittee on Public Lands and Forests in October 2009, Congress has, on multiple occasions, deemed it appropriate to amend ANCSA to address in an equitable manner issues that were not anticipated by Congress when ANCSA passed.

ADDITIONAL OBSERVATIONS: WHY NATIVE LAND CLAIMS ARE UNIQUE IN THE TONGASS

Two documents attached to this written testimony present an historical perspective on the long struggle to return lands in the Tongass to Native people: (1) the draft document funded by the Forest Service and authored by Dr. Charles W. Smythe, "A New Frontier: Managing the National Forests in Alaska, 1970-1995" (1995) ("A New Frontier"); and (2) a paper by Walter R. Echo-Hawk, "A Context for Setting Modern Congressional Indian Policy in Native Southeast Alaska ("Indian Policy in Southeast Alaska").*

The findings and observations summarized below are to be attributed to the work of Dr. Smythe and Mr. Echo-Hawk. For the sake of brevity, we have summarized or paraphrased these findings and observations. We encourage people with an interest in the history of the Tongass generally, or in this legislation specifically, to take the time to read these documents in full.

Dr. Smythe's research, compiled in "A New Frontier", found, among other things:

- By the time the Tongass National Forest was created in 1908, the Tlingit and Haida Indians had been marginalized. As white settlers and commercial interests moved into the Alaska territory, they utilized the resources as they found them, often taking over key areas for cannery sites, fish traps, logging, and mining.
- The Act of 1884, which created civil government in the Alaska territory, also extended the first land laws to the region, and in combination with legislation in 1903, settlers were given the ability to claim exclusively areas for canneries, mining claims, townsites, and homesteads, and to obtain legal title to such tracts. Since the Indians were not recognized as citizens, they did not have corresponding rights (to hold title to land, to vote, etc.) to protect their interests.
- For decades prior to the passage of ANCSA, the Forest Service opposed the recognition of traditional Indian use and aboriginal title in the Tongass National Forest. As late as 1954, the Forest Service formally recommended that all Indian claims to the Tongass be extinguished because of continuing uncertainty affecting the timber industry in Southeast Alaska.
- On October 7, 1959, the U.S. Court of Claims held that the Tlingit and Haida Indians had established their claims of aboriginal Indian title to the land in Southeast Alaska and were entitled to recover compensation for the uncompensated taking of their lands, and for the failure to protect their hunting and fishing rights.

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*Documents have been retained in subcommittee files.

- The efforts by the Interior Department in the 1930s and 1940s to establish reservations in Southeast Alaska greatly alarmed the Forest Service—which at the time opposed the principle of aboriginal rights and its serious conflict with Forest Service plans for a pulpwood industry in Alaska.
- The policy of the Roosevelt Administration, with Harold Ickes as Interior Secretary, was to recognize aboriginal rights to land and fisheries in Alaska and to support efforts to provide a land and resource base to Native communities for their economic benefit. Following hearings on the aboriginal claims related to the protection of fisheries in the communities of Hydaburg, Klawock and Kake, Secretary Ickes established an amount of land to be set aside for the three village reservations: Hydaburg—101,000 acres; Klawock—95,000; acres Kake—77,000 acres.
- The judgments of the Department of the Interior were troubling to the Forest Service. If realized, the whole timber industry in southeast Alaska would be jeopardized. The Forest Service's ability to make timber sales would be in doubt.
- The Department of Agriculture later expressed its agreement with the efforts of the U.S. Senate to substantially repeal the Interior Secretary's authority to establish the proposed reservations in Southeast Alaska.

Walter Echo Hawk's paper, "Indian Policy in Southeast Alaska", observes, in part:

- The creation of the Tongass National Forest was done unilaterally, more than likely unbeknownst to the Indian inhabitants.
- The Tongass National Forest was actually established subject to existing property rights, as it stated that nothing shall be construed "to deprive any persons of any valid rights" secured by the Treaty with Russia or by any federal law pertaining to Alaska. This limitation was essentially ignored.
- A Tlingit leader and attorney William Paul won a short-lived legal victory in the Ninth Circuit Court of Appeals in Miller v. United States, 159 F. 2d 997 (9th Cir. 1947), which ruled that lands could not be seized by the government without the consent of the Tlingit landowners and without paying just compensation.
- To combat this decision, federal lawmakers passed a Joint Resolution authorizing the Secretary of Agriculture to sell timber and land within the Tongass National Forest, "notwithstanding any claim of possessory rights" based upon "aboriginal occupancy or title." This action ultimately resulted in the Tee-Hit-Ton Indians v. United States decision, in which the U.S. Supreme Court held that Indian land rights are subject to the doctrines of discovery and conquest, and "conquest gives a title which the Courts of the Conqueror cannot deny." 348 U.S. 272, 280 (1955). The Court concluded that Indians do not have 5th Amendment rights to aboriginal property. The Congress, in its sole discretion, would decide if there was to be any compensation whatsoever for lands stolen.

S. 730: A LEGISLATIVE SOLUTION WITH SIGNIFICANT PUBLIC POLICY BENEFITS

Alaska's congressional delegation has worked hard to ensure that the fair settlement of Sealaska's Native land claims is accomplished in a manner that may have the greatest benefit to all of Southeast Alaska with the least possible impact on individuals, communities, federal and state land management agencies, and other interested stakeholders.

Thanks to the hard work of Alaska's congressional delegation, this legislation largely is in symmetry with the goals of the Obama Administration for the Tongass, which has worked to protect roadless areas and accelerate the transition away from forest management that relied on old growth harvesting. The Administration has been clear that it wants to help struggling communities in rural Alaska. The Administration also has dedicated unprecedented resources to working with American Indian and Alaska Native communities nationwide. This legislation helps to finalize Sealaska's Native entitlement in an equitable way, while supporting a transition by Sealaska to second growth harvesting and maintaining rural Southeast Alaska jobs.

Without legislation to amend ANCSA, Sealaska will be forced either to select and develop roadless old growth areas within the existing withdrawals or shut down all Native timber operations, with significant negative impacts to rural communities, the economy of Southeast Alaska, and our tribal member shareholders. This legislation proposes an alternative: S. 730 would permit Sealaska to select its remaining entitlement lands from outside of the ANCSA withdrawal boxes. The alternative land pool from which Sealaska could select under S. 730 includes forestland suitable for timber development, but commits Sealaska to select a great deal of second growth in lieu of the old growth available to Sealaska today. In fact, the legislation

ultimately would preserve as much as 40,000 acres of old growth, and even more inventoried roadless acres.

S. 730 would permit Sealaska to select 3,600 acres of land as sacred and cultural sites, and 5,000 acres of small parcels of land sometimes referred to as "Native futures sites". Under the terms of the legislation, no timber or mineral development would be permitted on sacred sites or Native futures sites. Because Sealaska would be permitted to select these sites in lieu of timberlands, these provisions reduce overall timber acres available to Sealaska by 8,600 acres.

Although Sealaska would thus give up "economic" assets under the proposed legislation, we believe the Southeast Alaska Native community will benefit because 3,600 acres of sacred sites will be returned to Native ownership. The community will also benefit from the 30 smaller selections (Native futures sites) that would be made available for development as green energy (tidal, geothermal, or run-of-river hydro) sites, bases for ecotourism or cultural tourism, or simply to exist as sites in Native ownership; in fact, several futures sites are traditional village sites. By permitting Sealaska to select a handful of small parcels for such alternative uses, S. 730 helps to preserve Native culture in perpetuity, ensures that the Tongass remains a Native place, and provides the catalyst for creating new sustainable economies within the Tongass.

The public benefits of this legislation also extend far beyond Sealaska Corporation and its shareholders. Pursuant to a revenue sharing provision in ANCSA, Sealaska distributes 70 percent of all revenues derived from the development of its timber resources—more than $315 million since 1971—among all of the more than 200 Alaska Native Corporations.

As discussed throughout this legislation, Sealaska's land legislation strategy was driven in large part by conservation organizations' stated public goals of "protecting roadless areas", "protecting old growth reserves", "accelerating the transition to second growth" and creating alternate economies for Southeast Alaska.

Finally, movement toward completion of Sealaska's ANCSA land entitlement conveyances will benefit the federal government. This legislation allows Sealaska to move forward with its selections, which ultimately will give the BLM and the Forest Service some finality and closure with respect to ANCSA selections in the region.

THE FOREST SERVICE'S PLANS FOR THE TONGASS: IMPACT OF S. 730 ON TONGASS MANAGEMENT

The U.S. Forest Service has, in the past, expressed concern that S. 730 could impact its ability to harvest second growth to support Southeast Alaska mills, and could impact other goals laid out in the 2008 Amendment to the Tongass Land Use Management Plan.

We believe Sealaska's offer to leave behind roadless old growth timber in the Tongass is significant; it is a proposal we believe this Administration should support based on its goals to protect these types of forest lands. We also believe that the lands proposed for conveyance under S. 730 conflict minimally with and may ultimately benefit the Forest Service's Transition Framework for the Tongass.

The Forest Service uses various classifications to define the condition of its second growth. The term "suitable" means that forestland is available for harvest. The term "unsuitable" refers to lands that are not available for harvest under normal harvest prescriptions. For purposes of our calculations, unsuitable lands exclude second growth in conservation designations, but include second growth available for restoration and stewardship contracting. Based upon our calculations, the following conclusions can be made:

- There are 428,972 acres of second growth on the Tongass National Forest.
  - —57% is available for harvest—suitable acres
  - —43% is not available for harvest, except through restoration and stewardship contracts—unsuitable acres
- Of the oldest second growth (over 40+ years):
  - —44% is suitable for harvest
  - —56% is unsuitable
- Sealaska selection of second growth would include approximately (an approximation is made due to differences between the bills introduced in the Senate and the House):
  - —7% of the total second growth
  - —9% of the suitable second growth
  - —4% of the unsuitable second growth

- Sealaska selections of age 40+ second growth include (an approximation is made due to differences between the bills introduced in the Senate and the House):

—12% of the total 40+ second growth
—9% of the 40+ second growth is from suitable acres
—4% of the 40+ second growth is from unsuitable acres

For the Forest Service, the most significant limitation to an accelerated transition to second growth is the large number of acres of older second growth that is in restricted timber use status. If these restrictions were modified or removed, there could be an acceleration to exclusive second growth harvesting.

If S. 730 were to pass today, under current standards and guidelines, the Forest Service would retain at least 223,000 acres of suitable second growth. In addition, it retains 177,000 acres of unsuitable second growth that is available for stewardship and restoration. We believe the total pool of lands available to the Forest Service is more than sufficient to support log demand for the Forest Service's Transition Framework.

We also believe that Sealaska and the Forest Service agree that, to achieve a successful transition to second growth, the Forest Service needs Sealaska to remain active in the timber industry in the Tongass, because Sealaska's operations support regional infrastructure (including roads and key contractors), development of markets (including second growth markets), and development of efficient and sustainable second growth harvesting techniques. In short, the likely success of the Forest Service's transition to second growth is significantly improved if Sealaska second growth operations are in close physical proximity to Forest Service second growth operations.

Sealaska has 30 years of experience developing and distributing Southeast Alaska wood to new and existing markets around the world. Sealaska recently has pioneered second growth harvesting techniques in Southeast Alaska and is active in this market. Partnership between Sealaska and the Forest Service, collaborating to build new markets based on second growth, will have a better chance of success.

This legislation, which moves Sealaska into some older second growth, ensures that Sealaska will engage as an early partner with the Forest Service in second growth market development, while continuing to provide local jobs and supporting the local economy.

It is also important to note that regardless of whether Sealaska selects within the existing ANCSA withdrawal boxes or outside of those boxes, Sealaska must select its remaining entitlement lands from within the Tongass National Forest. In other words, by selecting Native entitlement lands, whether under existing law or the proposed legislation (S. 730), Sealaska's land selections will incorporate lands suitable for timber development and may require the Forest Service to adjust land management plans to account for such selections. However, the ability to make minor management adjustments is built into the revised Tongass Land Management Plan.

LOCAL IMPACT OF S. 730: SAVING JOBS IN RURAL SOUTHEAST ALASKA

The Southeast Alaska region lost about 750 jobs in 2009, the largest drop in at least 35 years. In January 2011, the Alaska Department of Labor and Workforce Development reported the unemployment rate for the Prince of Wales—Outer Ketchikan census area at approximately 16.2 percent. In October 2007, the Alaska Department of Labor and Workforce Development projected population losses between 1996 and 2030 for the Prince of Wales—Outer Ketchikan census area at 56.6 percent. Official unemployment rates severely underreport the actual level of regional unemployment, particularly in our Native communities.

While jobs in Southeast Alaska are up over the last 30 years, many of those jobs can be attributed to industrial tourism, which creates seasonal jobs in urban centers and does not translate to population growth. In fact, the post-timber economy has not supported populations in traditional Native villages, where unemployment among Alaska Natives ranges above Great Depression levels and populations are shrinking rapidly.

We consider this legislation to be the most important and immediate "economic stimulus package" that Congress can implement for Southeast Alaska. Sealaska provides significant economic opportunities for our tribal member shareholders and for residents of all of Southeast Alaska through the development of our primary natural resource—timber. Sealaska and its subsidiaries and affiliates expended over $45 million in 2008 in Southeast Alaska. Over 350 businesses and organizations in 16 Southeast communities benefit from spending resulting from Sealaska activities. We provide over 363 full and part-time jobs with a payroll of over $15 million. Including

direct and indirect employment and payroll, Sealaska in 2008 supported 490 jobs and approximately $21 million in payroll.

We are proud of our collaborative efforts to build and support sustainable and viable communities and cultures in our region. We face continuing economic challenges with commercial electricity rates reaching $0.61/kwh and heating fuel costs sometimes ranging above $6.00 per gallon. To help offset these extraordinary costs, we work with our logging contractors and seven of our local communities to run a community firewood program. We contribute cedar logs for the carving of totems and cedar carving planks to schools and tribal organizations. We are collaborating with our village corporations and villages to develop hydroelectric projects. We do all of these collaborative activities because we are not a typical American corporation. We are a Native institution with a vested interest in our communities.

Our shareholders are Alaska Natives. The profits we make from timber support causes that strengthen Native pride and awareness of who we are as Native people and where we came from, and further our contribution in a positive way to the cultural richness of American society. The proceeds from timber operations allow us to make substantial investments in cultural preservation, educational scholarships, and internships for our shareholders and shareholder descendants. Through these efforts we have seen a resurgence of Native pride in our culture and language, most noticeably in our youth. Our scholarships, internships and mentoring efforts have resulted in Native shareholder employment above 80% in our corporate headquarters, and significant Native employment in our logging operations. To create jobs, Sealaska has sponsored new initiatives in Southeast Alaska like mariculture farming.

ANCSA authorized the return of land to Alaska Natives and established Native Corporations to receive and manage that land so that Native people would be empowered to meet their own cultural, social, and economic needs. S. 730 is critically important to Sealaska, which is charged with meeting these goals in Southeast Alaska.

LOCAL IMPACT OF S. 730: DIVERSIFICATION OF THE SOUTHEAST ALASKA ECONOMY

The proposed conveyance of sacred and cultural sites and the Native Futures sites offers new economic, cultural, and educational opportunities for our region. Our legislation would allow Sealaska to pursue a more diversified economic strategy and would support new jobs by empowering Sealaska to preserve and share with others the richness of Southeast Alaska's natural and cultural history. Both the forest ecosystem and the people it supports define the Tongass. The Tongass has supported Alaska Native people for 10,000 years.

Sealaska is embracing a healthy, alternative paradigm for the cultural and economic revitalization of our Native and rural communities by selecting sacred and cultural and Native Futures sites as part of this legislation. As part of our commitment, Sealaska has established the following principles for the use and management of these sites:

- Sacred sites.—These sites will be selected and managed to ensure an active Native role in the preservation and celebration of the rich Native fabric and history of Southeast Alaska. The sites are purely for sacred, cultural, historic and anthropologic preservation, research and education. Any site improvements would be in alignment with the historic and cultural purpose for which a site was selected, and such improvements must be consistent with the management plans for adjacent public lands. Public access would be preserved under sections 17(b) and 14(g) of ANCSA and the provisions of S. 730.
- Native Futures sites.—These sites will be selected and managed to promote activities with minimal land use impacts. A few of these sites could be developed for their tidal, geothermal, or small hydroelectric potential, as sources of much needed alternative energy for the region. Some may simply be preserved as Native places, supporting children's cultural camps or traditional subsistence activities. Some sites might be used as a base for ecotourism and cultural tourism activities. Public access would be preserved under sections 17(b) and 14(g) of ANCSA and the provisions of S. 730.

CONSERVATION CONSIDERATIONS

We were disheartened last year when a handful of environmental groups disseminated blatant misinformation about this legislation. We think these groups must view this legislation as a part of a larger compromise between development and conservation, and by publishing statements like "Stop the Corporate takeover of the Tongass", these groups chose to ignore the Native equitable and other public bene-

fits of this legislation. This only hurts our communities and the people who live there, including those who survive on jobs created by Sealaska.

This legislation is fundamentally about the ancestral and traditional homeland of a people who have lived for 10,000 years in Southeast Alaska. For 145 years, people from across the western world have traveled to Southeast Alaska with an interest in the rich natural resources of the region—an area the size of Indiana. In the mid-1800s, Americans came to Southeast Alaska to hunt for whales. In the late-1800s, gold miners arrived. In the first half of the Twentieth century, the fishing industry built traps at the river entrances, depleting salmon populations. In the 1950s and 1960s, two pulp mills signed contracts with the United States that gave the mills virtually unlimited access to Tongass timber. In the meantime, Natives from the late-1800's through the 1930's often were being moved from their traditional villages and territory to central locations, in part for BIA schooling.

Some conservation groups represent the latest influx of people with an idea about what best serves the public interest in the Tongass. In fairness, the conservation community writ large has long fought to preserve the Tongass for its wilderness and ecological values, and often I have appreciated the balance that the conservation community seeks for the forest.

What I do not appreciate is environmentalism that does not recognize the human element—that people have to live in this forest. I do not accept environmentalism that does not recognize that the Tongass is a Native place. We welcome people to our homeland—but we do not appreciate the assault by some on our right to exist and subsist in the Tongass.

There are groups that consistently agree with us that we should have our land, but wish to decide—to the smallest detail—where that land should be. We have been asked to place as much as two million acres of conservation on the back of our legislation as the price for selecting lands that make cultural and economic sense to our people. Native people have always been asked to go second. Let's not forget that S. 730 addresses the existing land entitlement of the Native people of Southeast Alaska.

In attempting to resolve Sealaska's unfortunate dilemma in an equitable manner, the Alaska Congressional delegation has been careful to draft legislation to be in alignment with the current Administration's stated objectives for the Tongass and other national forests; specifically, to protect roadless areas, reduce harvesting of old growth, and accelerate transition to second growth management.

Moreover, while original withdrawal limitations make it difficult for Sealaska to meet its traditional, cultural, historic and—certainly—economic needs, these original withdrawn lands are not without significant and important public interest value. For example, approximately 85 percent of those lands now designated for withdrawal by Sealaska are classified by the Forest Service as designated roadless areas. A significant portion is Productive Old-Growth forest (some 112,000 acres), with over half of that being Old Growth Reserves as classified under the 2008 Amendment to the Tongass Land Use Management Plan. S. 730 allows these roadless old growth lands to return to public ownership, to be managed as the federal government and general public sees fit. On the other hand, if forced to select from the existing withdrawals, Sealaska will find itself in the insensible position of possibly building expensive roads into sensitive watersheds and pristine areas in order to continue even limited timber operations, an action contrary to our principles.

Some groups claim that "the lands that Sealaska proposes to select . . . are located within watersheds that have extremely important public interest fishery and wildlife habitat values." They are correct in a general sense. We agree that all lands in our region are valuable; our federal lands and our Native lands should be managed responsibly. We acknowledge the need for conservation areas and conservation practices in the Tongass. This bill meets those goals.

More fundamentally, this is not a bill about timber. This is not a bill about how much land Congress chose to give to the Native people of Southeast Alaska. This legislation fundamentally recognizes that the Tongass National Forest is a Native place—that it can support our Native community.

ECONOMIC DEVELOPMENT ON NATIVE LANDS AND SEALASKA'S SUSTAINABLE FOREST MANAGEMENT PROGRAM

Sealaska has a responsibility to ensure the cultural and economic survival of our communities, shareholders and future generations of shareholders. Sealaska also remains fully committed to responsible management of the forestlands for their value as part of the larger forest ecosystem. At the core of Sealaska's land management ethic is the perpetuation of a sustainable, well-managed forest, which supports tim-

ber production while preserving forest ecological functions. Significant portions of Sealaska's classified forest lands are set aside for the protection of fish habitat and water quality; entire watersheds are designated for protection to provide municipal drinking water; and there are zones for the protection of bald eagle nesting habitat. To be very clear, Sealaska has harvested 189,000 of the 290,000 acres of land it owns; of which 81,000 acres have been clear cut over the last 30 years. The decision to clear cut or partial cut is not taken lightly, and is always based on the best science and best forest practices.

Sealaska re-plants, thins and prunes native spruce and hemlock trees on its lands, thereby maintaining a new-growth environment that better sustains plant and wildlife populations, and better serves the subsistence needs of our communities. In fact, Sealaska has invested a great deal of resources in improving its forest sustainability program, including investing in ongoing silviculture research, and reaching out to organizations like the Forest Stewardship Council to ensure best possible management practices. All of Sealaska's even aged second-growth forest that is ripe for precommercial thinning is managed accordingly, creating healthy young forests that provide wildlife habitat. Sealaska maintains a silviculture program that rivals the best of programs implemented by the Forest Service or private landowners. Our harvesting program as well as thinning and planting investments provide jobs for our shareholders and others in the region, and help maintain the ecological value of our forests.

In asking for your support for this legislation, we implicitly agree to assume a major economic risk by foregoing assured revenue from the harvesting of old growth timber on original withdrawal lands. We are also removing 8,600 acres from our timber base by selecting cultural sites and Native futures sites subject to timber harvest restrictions. We are committed to investing the time, money and hard work in progressive management of second growth stands, to capture alternative economies from forest management and to ensure that our place in the timber industry remains a sustainable, although realigned, component of the region's economy.

Finally, Sealaska is committed to using its land base to create alternative economies, revenues, and jobs through forest management strategies that include engagement in markets for the purchase of ecological services. To that end, we are monitoring developments related to carbon sequestration and incorporating this effort into our forest management and strategic plans.

TIME IS OF THE ESSENCE

Timing is critical to the success of the legislative proposal before you today. Without a legislative solution, we are faced with choosing between two scenarios that ultimately will result in dire public policy consequences for our region. If S. 730 is stalled during the 112th Congress, either Sealaska will be forced to terminate all of its timber operations within approximately one year for lack of timber availability on existing land holdings, resulting in job losses in a region experiencing severe economic depression, or Sealaska must select lands that are currently available to it in existing withdrawal areas. This legislation is consistent with President Obama's commitment to preserving more roadless areas, while immediately stimulating the rural economy in a severely impacted region.

SEALASKA RECOGNIZES THE IMPORTANCE OF THE PUBLIC PROCESS

The alternative selection pool identified in the Sealaska bill is a product of an exceptional public process, including three previous Congressional hearings, more than a dozen meetings held by Senator Murkowski's staff in Southeast communities, and hundreds of community meetings held by Sealaska with the State of Alaska, mill owners and industry representatives, conservation groups, the Forest Service, the BLM, and Members of Congress and staff.

The Sealaska bill has the support of the full Alaska delegation and many residents, communities and tribes throughout Southeast Alaska and statewide:

- The legislation is supported by the National Congress of American Indians, the Intertribal Timber Council, the Alaska Federation of Natives, the ANCSA Regional Presidents & CEOs, the Central Council of Tlingit and Haida Indian Tribes of Alaska, and numerous local tribes throughout Southeast Alaska.
- The Alaska Forest Association—which works with and represents Southeast Alaska's remaining timber mills—fully supports the Sealaska legislation.
- The Sealaska bill represents a net gain to the U.S. Forest Service of roadless and old growth timber in the Tongass National Forest. The legislation is fundamentally aligned with the goals of the Obama Administration.
- In autumn 2010, Davis, Hibbitts & Midghall, Inc. (DHM Research) conducted two telephone benchmark surveys to assess the values and beliefs of Southeast

Alaska residents, and measure awareness of and support for Sealaska's land bill. 90 percent of Southeast residents describe the economic health of Southeast Alaska as either poor, very poor or in a crisis. 88 percent of Southeast residents agree that the Tongass should be managed in a way that balances job creation and the protection of fish and wildlife habitats. Support for Sealaska's land legislation significantly outweighed opposition, with Southeast resident responding in support outweighing those opposed by 58 percent.

Some critics of this bill want to shut down this legislation because it might mean that Sealaska selects lands on "their" islands, in "their" backyard, near "their" favorite spots. At some level, this is understandable. But every acre of the Tongass is precious to someone and we need somewhere to go to fulfill our entitlement. Sealaska has been careful to select lands that are part of the Forest Service's timber base. Sealaska has compromised and adjusted its legislation several times on the basis of community and even individual concerns.

SENATORS LISA MURKOWSKI AND MARK BEGICH HAVE WORKED TO RESOLVE FEDERAL, STATE, AND LOCAL CONCERNS

As discussed above, this legislation has been subject to an exhaustive public process over the course of many years. To address federal, state and local community concerns, Senator Lisa Murkowski and Senator Mark Begich have re-introduced revised legislation in the 112th Congress that includes significant amendments to legislation introduced in the 111th Congress:

- Economic lands.—The land selection pool on northern POW has been removed. The land pool on Koscuisko Island will be reduced by 6,079 acres. Selections at Keete/Kassa/Mabel will be reduced by 3,070 acres. A new selection area has been added on Kuiu Island, and the Polk Inlet and Tuxekan withdrawal areas have been expanded. Commercial guides are granted an extended right of access—specifically, one additional permit term of ten years—to economic lands.
- Conservation Package.—The revised bill designates more than 150,000 acres of forestland, much of which is roadless old growth, for new conservation in the Tongass.
- Native futures sites.—The revised legislation removes several Native futures sites, leaving 30 futures sites in the legislation. Sites removed include those for which specific concerns were raised in community meetings. The legislation has been amended to clarify that public access "across" futures sits is permitted, and that commercial guides are granted an extended right of access to the sites.
- Sacred sites.—The revised legislation authorizes Sealaska to select 3,600 acres of new sacred sites, 90 percent of which must be selected within 15 years after passage of the bill. The revised legislation clarifies that these conveyance are subject to the procedures applicable to the selection of such sites under ANCSA.
- Public access across sacred sites.—The legislation has been amended to provide that public access across sacred sites is permitted if "no reasonable alternative access" to adjacent public lands is available.
- Use of sacred sites by Sealaska.—The legislation has been amended to clarify that, although Sealaska may utilize sacred sites for a broad array of reasons listed in the bill, Sealaska is limited to "site improvement activities" that are consistent with the sacred, cultural, traditional, or historic nature of the site and are not inconsistent with the management plans for adjacent public lands.
- Glacier Bay.—The revised bill drops language that would require the National Park Service to enter into a memorandum of agreement with Sealaska and other Native entities in Southeast Alaska for the management of cultural resources in Glacier Bay.
- Technical amendments.—The revised bill drops the Tribal Forest Protection Act and National Historic Preservation Act amendments.

OUR FUTURE IN SOUTHEAST ALASKA

Our people have lived in the area that is now the Tongass National Forest since time immemorial. The Tongass is the heart and soul of our history and culture. We agree that areas of the region should be preserved in perpetuity, but we also believe that our people have a right to reasonably pursue economic opportunity so that we can continue to live here. S. 730 represents a sincere and open effort to meet the interests of the Alaska Native community, regional communities, and the public at large.

It is important for all of us who live in the Tongass, as well as those who value the Tongass from afar, to recognize that the Tlingit, Haida and Tsimshian are committed to maintaining both the natural ecology of the Tongass and the Tongass as

our home. We therefore ask for a reasoned, open, and respectful process as we attempt to finalize the land entitlement promised to our community 40 years ago. We ask for your support for S. 730.

Gunalchéesh. Thank you.

Senator WYDEN. You've given a very eloquent statement. We're going to work closely with you and the tribe.

Ms. Poelstra.

STATEMENT OF MYLA POELSTRA, REPRESENTING NINE ALASKA TOWNS, EDNA BAY, AK

Ms. POELSTRA. I'd like to thank the committee members for allowing me to be here today. I really appreciate the opportunity and I hope you accept my testimony.

Senator WYDEN. Without objection, it will be entered into the record in full.

Ms. POELSTRA. Thank you.

Senator WYDEN. As will happen with all of you.

Ms. POELSTRA. My family moved to Alaska because of one creature, the Spotted Owl. My father and uncles worked as loggers in the woods of Oregon, Washington, Idaho, and Montana as did my grandfather, whose father came to this country to farm and work in the woods in Idaho. When we moved to Edna Bay my family put our savings into the lodge and general store that I run where I am, in my spare time, the Post Mistress and also known as mom to my sons.

Today, I represent the nine Alaska towns. Here's their perspective.

Most of the residents of the nine towns are salt of the Earth, folks who built their lives around the forest. Our people log, run small mills or lodges, like the one my family owns, some guide or fish commercially for salmon which return by the millions to our islands. Almost everyone puts meat on the table in the winter by hunting deer or fishing. Many cut wood from the forest to build the structures we use.

Our towns range from Hollis in the South, Point Baker and Port Protection to the North and Southwest to my community of Edna Bay. Whale Pass is an old logging camp, as is Thorne Bay, the largest in the country at one time. So too is Naukati, Cape Pole and Edna Bay, then there's Kupreanof. Many in the towns feel like an endangered species, threatened to the core by S. 730 which we view as a land grab by Sealaska Corporation.

Our business investments in varied communities are imperiled by this legislation. For us to survive we have to end the cycle of boom and bust. Sealaska created a boom when they decided to liquidate almost all of the 290,000 acres acquired from Congress via ANCSA without a thought for future jobs.

It took them 30 years to cut from mountain top to the sea. Now facing a bust, Sealaska returns to Congress asking for the best forest lands, never contemplated by ANCSA. If Sealaska represents the worst logging practices in the country, there must also be a line between pure preservation and Sealaska's devastation.

Sustainable logging is the answer. Logging small enough to support families who rely on the woods without creating the crisis we see coming if this bill passes. Over many years the Forest Service

created a rational plan which balances uses of the forest as required by law. S. 730 will destroy that plan.

Not long ago a Federal judge was asked to list the Alexander Archipelago wolf as an endangered species, but decided the listing was not necessary. Why? Because of the Tongass Land Management Plan. This plan recognized that old growth reserves was vital, old growth forests was vital for deer to survive long winters. So it wisely set aside old growth reserves containing very large trees.

The judge refused to list the wolf as endangered because he recognized OGRs adequately protect deer, the food source for the wolf. So what land do you suppose Sealaska wants in this bill? They want OGRs, big stands of timber and the most productive second growth stands too.

This reduces winter range for deer. The wolf population plunges. Then the door opens for a lawsuit.

S. 730 will trigger the Endangered Species Act by giving Sealaska old growth reserves. We know there are organizations who will sue the Forest Service immediately to get the wolf listed as endangered if these OGRs are given to Sealaska. And they will very likely win.

Any ESA listing will occur soon after passage of S. 730 followed by a cascade of dire consequences.

No meat on the table when hunting season closes.

Empty hunting and fishing lodges.

Reduced government support staff.

Sawmills out of timber.

Closed schools.

Abandoned towns.

Moreover, this bill will affect the whole State. This will set a precedent. It's unprecedented to get economic development sites outside ANCSA boundaries. If Sealaska can do this, so can the other 12 native corporations.

The access issues raised by this bill for sportsmen will become a huge statewide issue. The cultural sites are a red herring. Sealaska refuses to commit in writing that cultural sites will not be commercialized. We believe cultural sites will be exploited for exclusive economic gain when all users now enjoy them.

Since Federal law now protects these sites there is no justification for a new category which could be used to modify ANCSA statewide. Another category called future sites, will affect the whole State, unjustly giving native corporations far more than was bargained for 40 years ago. One future site is an incredible grab of a rich resource.

Icy Straits, according to the Electrical Power Research Institute, has the potential to produce as much power as all the Columbia River dams, 28,000 megawatts. Icy Straits is far removed from Sealaska's remaining allotments. This one site could be worth more money than all of Sealaska's selections.

Sealaska is absolutely opposed to inclusion in this bill, a permanent, federally mandated, 100 foot bumper strips on Salmon Creeks so the streams they log, like around Calder will be irreparably harmed. Sealaska should not be getting the roads, bridges and log dumps to taxpayers built for hundreds of millions of dollars. We have a logical solution. S. 730 should be torn up.

Three years ago——

Senator WYDEN. Ms. Poelstra, excuse me again. Just to be fair to all the panel members and——

Ms. POELSTRA. I just need a few more seconds, sir. I'm almost to the end.

Senator WYDEN. That would be great. Thank you.

Ms. POELSTRA. Three years ago Sealaska submitted selections to the BLM requested by their President in 1975. BLM needs to finalize the 2008 submissions. The towns asked BLM to do so last year, but were brushed off.

BLM cannot act until Congress, as it should, washes it hands of trying to enable a land grab. Please, do not let our towns become ghost towns. Tear up this bill.

[The prepared statement of Ms. Poelstra follows:]

PREPARED STATEMENT OF MYLA POELSTRA, REPRESENTING NINE ALASKA TOWNS, EDNA BAY, AK

Senators Wyden and Bingaman, thank you for inviting me here today to testify on a bill the towns I represent view as a threat. I also appreciate the opportunity to see Senator Murkowski and communicate with her face to face for the first time in the four years since this legislation surfaced.

I HAVE EXPERIENCED UNSUSTAINABLE LOGGING

My name is Myla Poelstra.

I have the honor today of representing Nine Towns in Alaska.

Nearly all of these towns are on Prince of Wales Island, our nation's third largest.

All but one of the huge chunks of land in this bill are located on the Prince of Wales Archipelago, which include the islands immediately off shore the long coast of Prince of Wales, such as Tuxekan and Kosciusko Islands. I live on the latter island.

In the 1790's, Captain George Vancouver named our Archipelago after the Prince of Wales, so striking an impression did our islands make upon him.

I personally know full well what happens when more trees are taken than can maintain sustainable long term employment.

Boom turns to bust.

And then issues like the spotted owl are raised and tear communities apart.

I know because my family going back three generations worked as loggers in every state in the Pacific Northwest. And we are in Alaska because of the spotted owl.

When we moved to Edna Bay, my family put our savings into the lodge and general store that I run, where I am, in my spare time, the Post Mistress—and also known as mom to my sons.

NINE TOWNS—WHO WE ARE

Even though I have never been east of Montana, the towns had faith I would represent their views and so passed the hat to get me here.

Here's their perspective.

Most of the residents of the Nine Towns are salt of the earth; folks who build their lives around the forest. In our towns, people log, run small mills, or lodges like the one my family owns. In Thorne Bay alone there are at least five small lumber mills producing between one half to a million board feet of lumber a year each. (Personal communication)

Other small mills are scattered in many of the towns. Some people guide, or fish commercially for salmon which return by the millions to our islands. And there are employees of the agencies who manage the forest. (See Letter May 18, 2011-City of Thorne Bay, attached)* As well as postmasters and store owners, while others are loggers. We also put meat on the table that comes from the forest.

Our towns range from Hollis to the south, Point Baker and Port Protection to the north, and southwest to my community of Edna Bay. Whale Pass is an old logging camp, as is Thorne Bay, the largest in the country at one time. So too, is Naukati, Cape Pole and Edna Bay. Then there is Kupreanof.

* See Appendix II for attachments to this testimony.

Since the forest is our provider, many in the towns avow cut and run practices of former days, in favor of a rate of cut that can maintain a reasonable work force in the mills and woods. (See Letter—City of Thorne Bay—May 18, 2011, attached)

S. 730 is a bill the towns regard as an unprecedented land grab for the benefit of one Native Corporation, Sealaska. (See numerous letters and clippings in committee files for S. 881 (2009-10), and S.730.)

Looking at this legislation, we feel like deer staring into headlights. Our business investments and very communities are in danger. We made business decisions based upon the land around us remaining in the National Forest. No one could have anticipated the land being transferred to a private party for boom and bust style logging.

EACH PROVISION DRAWS PASSIONATE OPPOSITION

Each provision has its opponents.

As I write this, I imagine myself for the first time packed on a Washington subway jammed like a sardine with nowhere to turn. Sealaska, of course, is no sardine locked into a can. It had and has other options than this legislation.

I will shortly show the cause of why we are here, and then go into the options Sealaska has rejected to avoid their "crisis". I will also suggest the solution to the "crisis". But first I want to outline the key provisions which are drawing opposition.

Buffers

The Alaska Trollers Association (and numerous other fishermen) thinks the proposed five year 100 foot buffer strip protection must be permanent. As do we. There is no way the State Legislature is going to make buffer strips 100 feet wide on private land, when Sealaska spent huge sums defeating this provision in 1990. Five years could expire, and lower state standards be applied, before the market recovers enough for logging to resume at the pace of other booms. (Letter May 18, 2011 ATA; opinion piece by Paul Olson, Juneau Empire May 21, 2011: Murkowski Bill Bad for Fish.)

Moreover, Sealaska refuses to put in writing or endorse permanent 100 foot buffers. 100 foot buffers prevent irreparable harm to salmon streams. This finding of irreparable harm without 100 foot buffers was a basis for the decision in Stein v Barton (Alaska, FD Court) 1990.

With the width of stream buffers firmly established on federal land, it is hard to understand the refusal of Sealaska to agree to this provision in writing.

It is important to note that even if the proposed 100-ft. buffers in S.730 were permanent, they still would fall far short of standards on Federal lands in Alaska, because federal regulations protect not only salmon streams, but upstream resident fish habitat, and headwaters important to downstream fish water quality.

The five year buffer in the bill is therefore a net loss to fish, streams, and those who enjoy them.

(See also letters from Mickey Knight, 35 year Petersburg resident as well as letters from the United Fishermen of Alaska, and Petersburg Vessel Owners Association, already in the committee files.)

Access across Cultural Sites and Future Sites

The Guides, Eco Tour Boat Operators, and Sportsmen, and frankly many ordinary Alaskans who enjoy the great outdoors, worry about access across the mysterious trail corridors, through as unidentified Cultural Sites, and in and across Future Sites. We share their concerns.

(See letters from Territorial Sportsmen, Alaska Outdoor Council, and Eco Tour Boat Operators already in the committee files on both S. 730 (2011) and S 881 (2009-10).

One 30 year Sitka resident, Bart Hamburg, wrote this committee, "Sealaska has 10 years to claim 3,600 acres. . .to be a cultural site with no right of protest by the public." "The law actually precludes public access for the harvest of fish and game, and only allows for public access easements "across" and not "on" the property. The public's access would be at the whim of the corporation." "Nor shall public easements be reserved to hunt or fish. . ." 2011 in the committee file, 42 CFR 2650.4-7

Our take is people can walk across but not hunt or fish should this bill pass.

Taxpayers wondering how the Federal Budget is going to be reduced will notice an additional loss of nearly ten square miles of highly valuable public land to a private corporation in this one unique provision alone.

Apparently, Sealaska rejects the Koniag language which allows for hunting and fishing.

In short this language provides:

(5) The lands on Afognak Island required to be conveyed pursuant Afognak Island to paragraph (1) of this subsection shall remain open and available to recreational and sport hunting and fishing and other recreational uses by the public commercial uses. under applicable law (but without liability on the part of Koniag Incorporated or any Koniag Village Corporation, except for willful acts, to any user by reason of such use), subject only to such reasonable restrictions which may be imposed by Koniag, Incorporated and the affected Koniag Village Corporations for the purposes of limiting or prohibiting such public uses in the immediate vicinity of logging or other commercial operations which may be undertaken by the corporations upon the affected lands. Such restrictions shall comprise only those restrictions necessary to insure public safety and to minimize conflicts between recreational and commercial uses. Koniag, Incorporated and the affected Koniag Village Corporations shall permit access to the lands on Afognak Island conveyed to them by employees of the State for purposes of managing fish and wildlife and by other State officers and employees, and employees of political subdivisions of the State, for the purposes of carrying out this subsection.

In other words, only during dangerous activity could access be denied. Dangerous is the only grounds for denial and it is clearly limited to logging activity. Commercial activity would not include an eco-tour or a lecture.

Finally, Trail Corridors are unnecessary. They are protected under federal management. Possible purposes for them could be to stop energy power corridors, for which the tariff over Sealaska land could be quite high, or block individuals from walking from one side of an island to the other.

Everyone I know thinks it is unfair and unjust to bail out Sealaska by giving them better land that they bargained for in 1971 and 1975.

Give away: public infrastructure—hundreds of millions of dollars

A quick look at the maps shows many existing roads and log dumps will be available that were developed by the US Forest Service at a cost to taxpayers that we estimate to be in the hundreds of millions of dollars. Will there be an accounting for this loss of public property that will be available to the committee prior to consideration?

No other ANCSA corporation got the benefit of expensive public infrastructure. We do not believe public property should be taken without just compensation.

Location of land selections

Sealaska land requests are like throwing a can of sardines against a wall. The one hundred square miles now consolidated within the confines of one area becomes well over a hundred square miles, but now affecting far more users throughout the Tongass National Forest.

It wants square mile after square mile of long, wide tracks stretching over many shoreline miles from the upper mountain slopes of many ocean bays to the sea.

The Tuxekan selection is as long as Lake Shore Drive on the North Side of Chicago, or the distance from Ronald Regan Airport in Virginia to Silver Springs, Maryland.

The Polk and McKenzie Bay request follows the shoreline of these sausage shaped bays for seven and five miles, or from Arlington, Virgina to Catholic University (according to Google maps).

Kosciusko is eleven miles long, a little shy of the length of Manhattan Island.

There are eight of these mega grabs in all. (See attached maps 1-6 for some parcels).*

Regarding these maps, we are disappointed that the boundaries superimposed upon the value of the timber in the areas reserved for wildlife were not made available on Senator Murkowski's web site, although they were created by the Forest Service in February. We trust this was an oversight and the attachments we provided will be made available to the public on her web site soon.

What is obvious is that Sealaska chose the best remaining trees.

Cultural sites a red herring

Sealaska refuses to commit in writing that cultural sites will not be commercialized. We believe cultural sites will be exploited for exclusive economic gain by Sealaska, when all users currently enjoy them.

Since federal law now protects these sites, there is no justification for a new category, which could be used to modify ANCSA statewide.

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*Maps have been retained in subcommittee files.

Future Sites conflict with existing users

Another category called future sites will undermine ANCSA throughout the state, unjustly giving native corporations far more than was bargained for 40 years ago.

One future site is an incredible grab of a rich public resource.

Icy Straits, according to the Electrical Power Research Institute, has the potential to produce as much power as all the Columbia River Dams, 28,000 megawatts. (Ocean Renewables Coalition—May 20, 2011, estimates world tidal power at 63,000 megawatts)

This one site could be worth more money than all of Sealaska's selections. There are other hydro land grabs. Why should the public loose this benefit to a private corporation?

These sites, spread throughout SE Alaska, are highly controversial, affect diverse communities, and are not in ANCSA but will be unwelcome precedent Before we look at how these provisions affect us, let us look at a key assumption: Sealaska's past actions are a predictor of future behavior.

HOONAH'S LEGACY

NATIVE MOVIE PICTURES UNSUSTAINABLE LOGGING

We know sustainability was an old Native value. But the Board of Directors of Sealaska valued profit over job retention.

Thus square mile after square mile was cut from mountain top to the sea.

Boom has now become bust. The reason appears simple.

Sealaska never intended to sustain jobs, but used its land as a cash cow, when it liquidated its most valuable trees to start profitable subsidiaries; such as a plastics and environmental cleanup businesses.

If you want to see the face of unsustainable logging, you have to see the movie that Alaska Natives made about how Sealaska logged land near their community.

When Natives condemn the Board of Directors of Sealaska themselves for short term profits vs. long term employment and use of local resources, you know there are huge problems.

Please watch Hoonah's Legacy: http://www.youtube.com/watch?v=oRQre80IVj4

While Sealaska claims they will not repeat cutting every tree in vast swaths in the future, no law bars them from doing so. Just as no law prevented them from letting many of the trees they cut rot in the woods.

SEALASKA ADMITS LOGGING UNSUSTAINABLE

See Chris McNiel's presentation to Natives in which he makes contradictory claims, "We cannot sustain our current level of harvest and jobs." And, "We have managed our lands sustainably." (p.2 (November 14, 2005) attached)

In 2006, the year after McNiel's statement that they were cutting too much, the rate of private logging increased.

The following chart* illustrates the rate of private logging in SE Alaska—the vast majority of which was Native logging.

Note the rate of logging sky-rocketed upward after 2001, even though Sealaska admitted the rate could not maintain jobs. Some of this logging was village logging and some Sealaska logging.

It appears Sealaska increased its logging after 2005 even after telling its shareholders the rate of logging was not sustainable.

Why worry about sustainability when their intent in 2005 was to put the land in the Tongass National Forest into a "Native Stewardship Trust", led by Sealaska, so they could manage it "better."

In the editorial, McNiel claims, "Sealaska has demonstrated the commitment and ability to properly manage our forests." (McNiel editorial: A New Vision For Our Forests and Our Future, November 21, 2005.)

This in the same year he told his shareholders their operation was not sustainable.

If over the first 20 years of operation, management of Sealaska was unaware their operations were "unsustainable", should the public bear the cost of bailing them out now with some of the most valuable lands in the Tongass?

We argue the public should not bail out another mismanaged corporation.

We have been unable to find a public audit of how many square miles has been cut. Is it approximately 200 square miles as the tables in appendix E of TLMP suggest or 450 square miles, which is their land base per McNiel's 2005 statement? Will

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*Chart has been retained in subcommittee files.

the committee request from Sealaska, the State, or the FS numbers to evaluate how many square miles there are for Sealaska to cut at this time within their present holdings and requested selections.

The committee also could direct the FS to analyze—for Sealaska's present ownership, the 100 square mile remaining uncut 1975 ANCSA acres conveyed, and the proposed selections in S-730—the same breakdown used by the FS in TLMP EIS 2008; that is, how many acres are in the seven size density classes (using the SDM methodology-model) or strata. In addition, the FS should analyze proportions between POG, unproductive old-growth,non-forest, second growth (or "young growth," which also includes natural even-aged stands), and freshwater per TLMP FEIS page 3-134 or thereabouts . McNiel stated in 2005 that they would request another hundred square miles or 64,000 acres to complete their entitlement in this bill. The current legislation appears to exceed McNiel's 2005 figure by 25 square miles assuming future site acerage is 5000 and 11,000 acres more in S 730 than McNiel's 64,000 figure in 2005. Ibid.

We argue that if Sealaska cannot sustain jobs on around 200 square miles, why should the public now give it 100 square miles from the Tongass National Forest?

It is better that Sealaska should reap what it sows, and log the 1975 lands which John Borbridge, its president, told Congress he wanted.

UNJUST ENRICHMENT

S. 730 modifies the Alaska Native Claims Settlement Act in an unprecedented way to give Sealaska much more valuable resource land than it bargained for at the time ANCSA was negotiated in 1971—when Native Corporations were blocking oil development in Alaska—and S. 730 nullifies 100 square miles Sealaska directed Congress to grant to them in 1975 when they asked for amendments to ANCSA.

It is the unharvested land they directed Congress to grant them in 1975 that they no longer want in 2011.

Now they ask Congress for a far richer 100 square miles.

What is unjust with that?

Plenty—

First, Southeast Alaska Natives got a seven million dollar settlement for all their land claims before ANCSA (1971). That was when a millionaire was kinda a billionaire.

Second, Congress in ANCSA (1971) then granted them approximately 554 square miles more of the Tongass in areas that had good timber and a share of a roughly billion dollar settlement with all Natives—a 1971 billion to benefit about 70,000 Natives.

A third settlement is S. 730—adding more than the 100 sq miles granted in 1975 into catagories unique to Sealaska (like the Icy Straights hydro site), more valuable acreage, and granting several hundred million dollars in the public's roads and bridges.

It is bad policy to give Sealaska three bites at the public's apple each bigger than the last.

S. 730 breaks Sealaska's acceptance of ANCSA and its 1975 amendment to finally and forever settle all land claims.

The cause of this legislation is bad business decisions by Sealaska's management team and Board of Directors who chose to maintain levels of harvest which they knew, or should have known, would exhaust their timber before new trees could attain commercial size.

McNeil argued in 2005 he just learned it would be more than 50 years before new trees could be cut again. Didn't the FS know way before then that the rotation was longer?*

We urge you not to allow yet another for profit corporation to seek a government bail out that rewards management for their mistakes.

Consider the consequences of passing any modification to Sealaska's 1975 ANSCA lands areas, which the Corporation requested BLM convey in 2008, but then put a hold on—pending the attempts to get a better deal in Congress.

S. 730 WILL BE DISASTEROUS

Not long ago a federal judge was asked to list the Alexander Archipelago Wolf as an endangered species, but decided a listing was not necessary.

Three high officials in the Alaska Department of Fish and Game who have over 75 years collective experience in the Department, and 50 years of experience dealing with the Endangered Species Act, sent a letter to Senator Murkowski warning of

* See addendum.

serious consequences of proceeding with S. 881, last year's version of the bill before you.

They wrote:

> The referenced legislation would allow the Sealaska Corporation to select several of the old-growth reserves in southern Southeast Alaska and the corporation's representatives have stated that they intend to log the-lands selected for economic development. If these reserves are conveyed to Sealaska by Congress it will almost certainly lead to a new petition to list the goshawk and wolf as endangered species and the distinct possibility that they will be so designated. (Page 1 Letter Reglin, Somerville, Robus—April 28, 2010, attached.) Emphasis added.

They added:

> We have concluded that the proposed land "exchanges" being proposed in S. 881 have huge endangered species ramifications for the Alexander Archipelago wolf and the Queen Charlotte goshawk. (Page 2)
>
> They cited the testimony of Under Secretary of Agriculture, Jay Jensen, before this committee on October 8,2009 who found that the land in the proposed selections "contained 12 old growth reserves" and represent a "significant component of the TLMP conservation strategy" three out of four we believe are still targeted on my island. (Page 2 Reglin)
>
> If the S 881 selections proceeded, Reglin et al noted that "radical environmental groups will once again file petitions to list both wolf and northern goshawk as endangered."(Page 3 Reglin)
>
> Finally, the Fish and Game officials noted that in fact the wolf and deer had "experienced significant declines" on Prince of Wales Island(s). (Page 3) They requested a thorough analysis and evaluation of the proposed selections be conducted by the US Fish and Wildlife Service and the ADFG. (Page 3 Reglin)

We are unaware if their recommendation was followed. But we do wish to concur in their alarm. "If either species is listed as threatened or endangered the effect will be the elimination of any logging industry in the region. . .Remember when Weyerhauser Corporation said 'the spotted owl' will never affect us." (Page 4 Reglin)

When these experts cite the Albert Study comparing the value of the timber in the 1975 ANCSA sardine can to the S. 881 bill selections for the finding that the proposed selections had the highest wildlife habitat in SE Alaska, I can't help wondering whether my family fled fallout from the owl only to be nuked by the wolf and goshawk.

If a judge is ready to list these species as soon as this bill passes—because passing the bill will pull the rug out from the Forest Service Plan called TLMP, which he said had Old Growth Reserves to protect them—I can tell you there would be a lot of townspeople sent packing.

These OGR's are big stands of timber. Satellite studies show some of the deer spend whole storms protected from deep snow under the limbs of the trees of the OGR's. S.730, it is clear targets many of them—three out of four on my island alone.

Wolves, as I hope people on the East Coast know, prey on deer. Lower deer numbers mean lower wolf numbers.

If this bill passes, our lodges close, saw mills run out of lumber, support staff move, schools close, and meat on the table will be scarce. In the end, towns could be abandoned.

OPPORTUNITIES LOST

After 2005, Sealaska attempted to negotiate with the Forest Service for an alternative to its ANCSA 1975 allotment. The Forest Service offered numerous parcels, many of them off of Prince of Wales Archipelago.

One of these sites was in Yakutat, home to the President of Sealaska at the time.

That site contained high volume timber that was profitable and near Yakutat, a sea anchorage for transport of round logs to Asia, and would create new employment for Mr. Mallot's townsmen.

Even with a one mile buffer on the Situk River, there was almost enough timber to fill the remaining hundred square mile land needed to complete its entitlement.

Sealaska withdrew from the negotiations rejecting every parcel that was offered to them by the Forest Service.

Shortly thereafter, Sealaska approached Senator Murkowski, and a four year battle began.

SOLUTION

We have a logical solution; 730 should be torn up.

Three years ago, Sealaska submitted selections to BLM requested by their President in 1975. BLM needs to finalize the 2008 submissions.

The towns asked BLM to do so last year, but were brushed off. BLM cannot act until Congress, as it should, washes its hands of trying to enable a land grab.

Please do not let our towns become ghost towns. Kill this bill.

ADDENDUM

At page 10, after the third to last paragraph, insert:

It surprising McNiel claims the corporation assumed a 50-75 year rotation between logging the trees when there was substantial published material suggesting longer.

Management agencies long considered the time period to be at least a 75 year plus

In 1979, for instance, the US Forest Service used a 100 or more rotation, which my family, with their three generations in the woods, thinks is more reasonable.

A 100-year rotation was used for site indexes of 100 or more; 120-year rotation for site indexes of 90 or less. On sites with indexes greater than 100 (or greater than 90 at Yakutat) and slopes less than 40 percent, one commercial thinning was programmed for stands between the ages of 70 and 90 years." (1979 TLMP DEIS at 37).

In 1928 Frank Heintzleman estimated an 85-100 year rotation.

In 1934 the Department of Agriculture's "Yield of Second-Growth Western Hemlock-Sitka Spruce Stands in Southeastern Alaska" stated that rotation periods had not yet been determined for the region, but suggested 75 years for pulpwood.

The 1937 "Report of the Alaska Resources Committee," cited studies that indicated a rotation period "which should be about 75 to 80 years."

In 1949 Heintzleman estimated an 80-85 year rotation.

Source Jim Makovjak's book http://www.adn.com/2006/06/24/187046/in-tongass-timber-writer-sorts.html

Senator WYDEN. Thank you. We will be working closely with you. I can see that there are strong and differing views. That's our job is to find a way to bring folks together.

Mr. Anderson.

STATEMENT OF SHERMAN ANDERSON, PRESIDENT AND OWNER, SUN MOUNTAIN LUMBER, INC. & SUN MOUNTAIN LOGGING LLC, DEER LODGE, MT

Mr. ANDERSON. Thank you, Mr. Chairman.

Senators, I'm very pleased to have been able to have been invited and made the trip here to testify on behalf of S. 268. My name is Sherm Anderson and I'm accompanied by my wife, Bonnie, who is here today with me. We live in a small town in Deer Lodge, Montana, located in Southwestern Montana.

We own and operate a small family business of logging and saw milling. All of our family members are involved in the business along with 350 direct and contracting jobs. Our survival will depend on a more reliable supply of timber from our National Forest.

Our business utilizes approximately 50 million board feet or 12,500 truckloads of logs per year. Currently we acquire 80 percent of those off of private lands, 10 percent off of State lands from Montana as well as Idaho and only 10 percent off of National Forest. In Montana over 60 percent of our forested land is on National Forest.

In Montana we now have five to six million acres of dead and dying timber on our National Forest. Our industry is shrinking in Montana. We've lost 40 mills, the last one being Smurfitt-Stone,

our paper facility in Missoula that employed 600 employees. We only have ten remaining.

Still we are 17 percent of the total economy of Montana. Ten years ago we were 35 percent. Twenty years, we were 50 percent of the economy of our State. Other States have lost all of their infrastructure, Wyoming, Colorado, New Mexico, Arizona and Utah.

A year ago Secretary Vilsack visited our mill and saw the dead timber surrounding our valley within 15 miles of our facility. He looked straight at me and asked, why can't we use this dead timber for lumber and biomass? Why don't you have a co-generation facility on your site?

The answer is very simple, poor forest management for a variety of reasons. One being, as you have stated, Mr. Chairman, moving at a snail's pace. If you look at the anatomy of a snail, they move not only very slowly, but they're able to sleep for years at a time. That's what's happening here.

Creating no reliable long term timber supply we have been working with industry, conservationist and other partners, one of which is I'd like to acknowledge here in the room from the Montana Wilderness Association, Brian Sibert. We have spent six long years of collaboration, collaborative efforts, to help develop solutions. The very thing that now the Forest Service, now advocates must happen.

We firmly believe that Senator Tester is proposing with this bill attempts to resolve gridlock on some of the National Forest. Bringing together very diverse groups with many different interests to resolve problems and to create and retain jobs through managing our net forest resources in a more responsible way by performing needed restoration work, preserving our high mountain back countries, guaranteeing recreational opportunities, protecting our clean water, hunting, fishing, grazing for livestock, protecting our communities from catastrophic wildfires, while preserving the wood products infrastructure that still remains. We see this as a win/win for all Americans who believe in the wise use of our National Forests.

I thank Senator Tester for his undying support and his effort, his willingness to give it all for the betterment of Americans. I ask the members of the subcommittee to support him and to move this forward.

[The prepared statement of Mr. Anderson follows:]

PREPARED STATEMENT OF SHERMAN ANDERSON, PRESIDENT AND OWNER, SUN MOUNTAIN LUMBER, INC. & SUN MOUNTAIN LOGGING LLC, DEER LODGE, MT

Senators, Chairman Wyden, Members of the Sub-committee on Public Lands and Forests of the Senate Committee on Energy and Natural Resources:

I would like to submit written testimony in support of the Forest Jobs and Recreation Act, S268, sponsored by Senator Jon Tester and co-sponsor Senator Max Baucus from our state of Montana

I live in the small community of Deer Lodge, MT with a population of 3,500 people, located in southwestern Montana. My wife Bonnie and I own and operate Sun Mountain Lumber and Sun Mountain Logging, small wood products manufacturing businesses in Deer Lodge. When in full operation prior to the recession, we employed 275 full-time employees and another 50 to 75 subcontractors.

We have been working with others in our industry and also the conservation community for the past six years in a collaborative effort to develop solutions that would resolve our differences and promote better forest management on our national forests. In our state where over 60% of our forested land is owned and managed by

the U.S. Forest Service, it is crucial to all Americans that we find ways to give the forest service the necessary tools they need to better manage our forests.

We have been watching our forests each year die from insects and disease, creating a serious threat of catastrophic wildfires that are sure to come. When these fires do occur they not only destroy the timber that we rely on for our businesses but also the habitat that is connected to it: wildlife, fisheries, recreation, livestock grazing, domestic water supplies, energy supply (power, gas and oil transmission lines), homes, communities and people's lives, not only those who live in and around the forest but the many who are put at risk as they fight the fires, in their efforts to protect the communities and resources.

We believe that this bill that Senator Tester is proposing gives the Forest Service additional tools they need to help them manage our forests. Management of our national forests currently is driven by two factors: controversy and budgets. These two factors often times are overlapping each other as we see project after project tied up in appeals and litigation, which in turn causes a drain on the budgets. Fire also is playing a major role in budgets as 50% of the Forest Service budgets are now being utilized for wildfire suppression.

We now in Montana alone have between 5 to 6 million acres of dead and dying timber, timber that is vitally needed to maintain our remaining industry infrastructure, timber that still has a useful value to all Americans but stands waiting for the fires that are sure to come, while we as an industry continue to shrink from lack of timber supply. Montana has lost over 40 of our wood products manufacturing facilities, which employed over 15,000 workers, with only 10 facilities remaining, which utilize 10 million board feet or more annually, employing 5,000 workers. The latest closure was Smurfitt-Stone Container in Missoula, which employed 600 workers. The wood products manufacturing industry now comprises 17% of Montana's total economy, second only to Petroleum at 20%. Ten years ago wood products were at 35% and 20 years ago we were at 50% of Montana's economy. So it is easy for to see where the industry is headed. We in the wood-products industry as well as our conservation partners know of the need for our infrastructure to remain viable as a management tool for healthy forests. We have witnessed in other states what happened when the infrastructure left. We need only to look at Colorado, New Mexico, Arizona, Utah and Wyoming who have all lost their basic system of harvesting timber and manufacturing wood products. Now they are faced with massive wildfires that destroy the resources that the forests had provided. When the wood products infrastructure is gone you lose all the trained work force and the facilities that can provide the needed restoration work. This has and will continue to cause a need for higher budgets as more money from the U.S. taxpayers goes to pay for fire suppression and forest restoration.

We all know that weather events are uncontrollable, as we are witnessing the massive destruction caused by hurricanes, tornadoes, floods and more. Wildfires are no different; however, with proper forest management, we can have an effect on the severity and results of these wildfire events.

Let me share a few statistics with you: Our facility of Sun Mountain utilizes 50 million board feet or 12,500 truckloads of logs per year. We currently acquire 80% of those logs from private land-owners, 10% from State Lands both Idaho and Montana, and 10% national forests both U.S. Forest Service and BLM lands (Bureau of Land Management). In Montana, remember, over 60% of the forested lands are located on U.S. Forest Service lands. Our private and state lands cannot continue to sustain us and all other wood products manufacturing in Montana.

In Montana, we are also beginning to feel the pressure from the Chinese and Japanese export markets occurring on the Pacific Coast. As that giant need continues, companies have been reaching further inland to secure the wood fiber from private and state timberlands; thus the growing demand for our national forests to provide for our domestic markets. We are certain that as our economy rebounds, as it is beginning to do, that our domestic markets' demands for wood fiber will far exceed the supply capabilities of both our domestic manufacturers as well as the Canadian suppliers. But the infrastructure we currently have cannot grow without some form of secure timber supply.

This bill attempts to resolve gridlock on some of our national forests, bringing together very diverse groups, with many different interest, to resolve problems and to create and retain jobs through managing our forest resources in a more responsible way: by performing needed restoration work, preserving our high-mountain backcountry, guaranteeing recreation opportunities, protecting our clean water, hunting, fishing, grazing for livestock, protecting our communities from catastrophic wildfires, while preserving the wood products infrastructure that still remains.

We see this as a win/win for all Americans who believe in the wise use of our national forests.

I thank Senator Tester for his undying support of this effort and his willingness to give it his "all" for the betterment of all Americans. I ask the members of this sub-committee to support him and to move this bill forward.

Senator WYDEN. Thank you very much, Mr. Anderson. We'll be working with you as well.

Mr. Congdon.

STATEMENT OF WALTER E. CONGDON, MONTANA CATTLEMEN'S ASSOCIATION, DELL, MT

Mr. CONGDON. Good day. It is nice to be in Washington, DC, and to see people who have gene of cattle pools. I buy cattle and sell cattle too. Your cattle in indirect in Sand Point are one of the closest there is. We send cattle to Oregon on Saturday, the gentleman from Oregon and the gentleman from Idaho as well.

It's fun. So the West is the same.

Senator WYDEN. Right.

Mr. CONGDON. There's no doubt about it, a simple thing.

Thank you for the chance to be here. What I would say is this.

First, to Senator Tester and all of you who have the same problem with the ruralism in mass. The whole rural economy is a mess. Thank you for looking at this bill. Thank you for addressing a problem and doing something that incorporates multiple use and at the same time it protects and saves and preserves all the lands we value a lot which is really significant to all of us.

Part of what's in the bill is out the front window of my house. Other parts of it are not. I've walked through a lot of it. We've seen it and there it sits.

My family originally set chokers and farmed in Idaho and Montana and Wisconsin. There they go. So we come by it honestly. There it says.

The things I put in the bill that I wish. My suggestions are simple and I wish Senator Barrasso were here.

One I ask that you add the preparatory language from numerous acts that I put in the first sentence. Those things read as follows.

Very simply, what they say is the policy of the Federal Government and it says that in the law, it is the policy of the United States that arrangements with local government, conservation districts, etcetera and similar cooperative agreements should be utilized to the fullest extent practicable. Local has a vote. Local makes a choice. Local should do it with Forest Service and BLM. This bill will succeed a lot better if you have a local incentive for success.

So the S. 375 arrangement that Barrasso was talking about implements exactly what the existing policy is. We really would like you to add it to this bill in those languages in the beginning because local gives us a vested interest in having success. The more we care on the ground about it working, whether it's Oregon, Idaho, Alaska, the better it's going to do. Frankly we have a vested interest in all of it. So that would be very good if you could make those sorts of changes.

Second, we thought the bill should acknowledge simply, multiple use, which is what Mr. Anderson talked about. Frankly multiple use is wilderness. It is cows grazing. It is forestry. It is fisheries. It is wildlife. It is hunting. It is all of those.

So putting the multiple use language in does a little better job of adding that and what we ask for there simply is in terms of monitoring we ask for a list, not just a talk about economic impact, not talk about social impact. They're nice words that give us a warm feeling. But frankly what are they?

So what we ask for was simply this. Talk about things like RVDs which is Recreational Visitor Days, fish and wildlife population, grazing AUMs, forest products productions, i.e. numbers, 52 million board feet verses 47 million whatever they are. Those mean a great deal to yourself in Alaska.

Those would mean a lot in Eastern Oregon etcetera. So give us a number that on the ground, for those of us that are using it, know what an AUM is, what an RVD is, what a million board feet is or what a log truck load is. Simple changes we ask for them for a specific reason. You see why.

The crisis of the whole bill is the one that you've all talked about today. It's delightful to be here and hear this. All of you have said, our infrastructure is in trouble. And frankly our infrastructure is gone.

I am only 53. In the first grade there were 9 sawmills in Missoula, Montana. Today there are none.

There was one in Victor. Today there is none.

There were two in Stevensville. Today there are none.

There were two in Hamilton. Today there are none.

There were two in Darby. Today there are none.

There was one in Conner. Today there's none.

There were two in Ronan. Today there are none.

There were two in Superior. Today there's none.

There were two in St. Regis. Now there's a small one. That's it.

There were two in Thompson Falls. Now there's one.

Two in Plains, there's none.

Hot Springs, there's none.

Go through the list.

The infrastructure is basically gone. A lot of it is. So aside from saying we need to restore. The other thing we need to probably add is a language that says, add, restore, to preserve. Because having SBA loan money, having whatever money available to say, look, we are restoring our infrastructure.

Whether it's a mechanic shop. Whether it's a mill that works on log trucks. Whether it's material or plants that build logging equipment, fine. But the company that built the mills in Oregon and the company that built the mills in Alaska was Mill Supply Company in Missoula, Montana until 1972.

I remember it well. It is now under a mall. It is gone, hasn't been there for 30 years. If you look at your old planners, stamped there is Mill Supply Company, Missoula, Montana. The infrastructure is gone. So to restore it, it really means a lot.

So I would conclude simply with this. I would read you three sentences.

It is the continuing responsibility of the Federal Government to use all practicable, important, historic, cultural and natural aspects of our national heritage and maintain wherever possible an environment which supports diversity and a variety of individual choice.

Those three sentences say a great deal. This bill does that. It is the best chance I've ever seen after 30 years of somebody doing wilderness, doing multiple use and that's three sentences is the prefatory language to the National Environmental Policy Act.

It is Section 16 USC, 43/31. This bill does precisely that. I would ask that you please support Senator Tester because a great deal of work went into this. It's 30 years after NEPA got adopted. It's a heck of a deal. It took 30 years to get that language in something that looks like this bill.

Thank you very much.

[The prepared statement of Mr. Congdon follows:]

PREPARED STATEMENT OF WALTER E. CONGDON, MONTANA CATTLEMEN'S ASSOCIATION, DELL, MT, ON S. 268

Ladies and Gentlemen;

This testimony is submitted on behalf of myself, numerous other southwest Montana persons and the Montana Cattlemen's Association.

The suggested changes are minimal in text but are substantial in issue and effect.

(1) Section 101, 3—add "while incorporating the policies set forth in 16 USC Section 2003 (b), 16 USC, Section 2008, 16 USC, Section 1508, and 16 USC, Section 3411(5)". This recognizes and encourages local participation and a vested interest in success, locally. (see attached)

(2) Section 101, 5—add "in a manner incorporating multiple use strategies where practicable". This acknowledges the planning-management mandate that applies to USFS lands. Multiple use is very important on the ground and seems consistent with forest jobs and sustainable management.

(3) Section 105 (c), Biomass—add "firewood" after "small diameter materials". Rural communities depend on this biomass. Of 92 households in Lima, Montana, 78 heat with wood—not oil, gas or electric. This is important environmentally and economically, as much of the community is very low income.

(4) Section 204 (i), page 31, Livestock—add "(4) to facilitate the purposes set forth in this Section and Act, grazing may be allowed as a management tool."

This may be goats or sheep grazing for weed control, cattle grazing for fuel reduction, or livestock for wildlife habitat improvement, like the Fleecer Mountain project of Montana Fish, Wildlife and Parks and the Wisconsin Oak Savannah Restoration project—Wisconsin DNR.

This tool may eliminate the need for mechanical or chemical control or activities to achieve the purposes of this Act.

(5) Section204 (L), page 33, (1) before water storage, add "water rights" A ditch with no water right is not useful, just as a water right with no ditch is not useful. This addition seeks to remedy this problem.

(6) Section 204 (L)(1)(B) (i)—delete "on the non-Federal land", as the water rights and structures are often for use on both private and public lands, for grazing, fire protection, etc. The land use and management are integrated, and the water that facilitates this should be recognized and used and managed similarly.

(7) Section 103 (f) (2) (B) inclusions, IV, add "resources produced , maintained, and reduced or increased, including RVDs, Fish and Wildlife populations, grazing aum's, forest products production and other quantifiable commodities or products".

This provides users, the agency and all participants with an inventory of how and what was produced—not produced, or impacted by the activities conducted hereunder. These numbers are very real to persons on the ground and should facilitate a commitment to success. They will also facilitate a broader evaluation of the total impact of this bill and related management activities.

(8) Section 101 (1)—add "restore" after "preserve", Management is a needed activity to accomplish the benefits contemplated by this Act and other Federal laws. Utilization of the forest products produced requires infrastructure. Much of the infrastructure needs to be rebuilt, and recognizing this should help facilitate doing so. This may be rebuilding small sawmills that no longer exist machine shops that manufacture equipment for processing forest products, or machine shops to maintain rolling stock.

I appreciate, on behalf of myself, Montana Cattlemen's Association and others, the opportunity to comment. We also appreciate the changes you have made on this bill since last year, and believe that you have all responded to many of the concerns we expressed. With these or similar changes, we support this act and hope that this will facilitate a local, on the ground commitment to success. We believe this is the first effort to address Wilderness issues with consideration of multiple uses and hope for the success of this management strategy.

ATTACHMENT

16 U.S.C. Section 2003 (b)

"Recognizing that the arrangements under which the federal government cooperates through conservation districts with other local units of government and land users have effectively aided in the protection and improvement of the nation's basic resources, it is declared to be the policy of the United States that these arrangements and similar cooperative arrangements should be utilized to the fullest extent practicable"

16 U.S.C. Section 1508

"The Secretary [of Agriculture] shall, in addition to appropriate coordination with other interested federal, state, and local agencies, utilize the services of local, county, and state soil conservation committees."

16 U.S.C. Section 3411 (5)

Congress finds solutions to "chronic erosion-related problems should be designed to address the local social, economic, environmental and other conditions unique to the area involved to ensure that the goals and policies of the federal government are effectively integrated with the concerns of the local community . . ."

16 U.S.C. Section 2008

"In the implementation of the Act, the Secretary [of Agriculture] shall utilize information and data available from other federal, state and local governments."

Senator WYDEN. Thank you, Mr. Congdon. You make a number of very important points. A big, big part of our challenge is now as we look to this fresh approach in forestry in trying to deal with the remaining infrastructure.

What a presentation to go town by town by town to describe what it was like before. What it's like now in terms of mills is to get some of the references that you are making in those last three points. That in effect touch on this new approach in forestry and link it to some of the issues of the future. So very helpful.

I want to let my colleagues ask questions. All of you have been an excellent panel. I thank you for making the long trek.

Senator Murkowski.

Senator MURKOWSKI. Thank you, Mr. Chairman. I want to follow on the chairman's comments here in noting your remarks, Mr. Congdon. Having gone to school as a young girl in Wrangell and remembering the mill there and knowing what our situation is now.

Again, I think we look back on what we had and where we are now and wonder what is it that we can do to make a difference. Senator Tester, you clearly have done a lot of work in this area. I appreciate your efforts there, but to take it back to our situation in Alaska, in Southeast where we did once have a vibrant timber economy, an economy that sustained our communities and our families.

We are, again, approaching that place where those Alaska communities that once hosted mills and operations and jobs for our families will be victims of where we are. What we're trying to do with this Sealaska bill is to try to keep the timber industry hanging on. From all accounts, whether it's through the Alaska Forest

Association and I note that Mr. Owen Graham is with us today listening. I mean, we recognize that what we have with the Sealaska legislation is one way that can help us, perhaps the only way that can help us maintain a small movement forward to retain some of this industry.

Mr. Mallott, I'd like you to address the issue of urgency. You hit upon it just very briefly in your comments. I mentioned it in my opening statements that the economy right now in Southeast is difficult.

We've been working on this bill now for several years. It was urgent at that time to address how Sealaska can not only help its shareholders, but help the regional economy. We're 3 years beyond that time when we introduced this bill.

Can you speak to the impact that this legislation will have on the private timber industry and the other economic activities within Southeast and why it is that we need to move on this sooner than later? Not taking Mr. Sherman's approach and keep talking about this.

Mr. MALLOTT. The industry just this past January lost one of its final, the timber industry, lost one of its final players with the closure of the Seeley mill near Ketchikan. To my knowledge there is just one significant mill remaining. That mill has continued to have a very difficult time with timber supply.

Sealaska's harvest is diminishing. We had hoped that with the bill that was introduced three Congresses ago that we would be at a point now where we could be at a harvest level that would allow the regional timber industry to continue if at least to survive, if not prosper. Virtually all of, as has been mentioned by a prior speaker on another bill, but certainly germane to this topic, all of the infrastructure is, to a large degree, gone.

Sealaska, itself, in the past several years has had a difficult time retaining contractors, retaining the materials, the supplies, the expertise necessary to sustain even a small harvest level at this time. If a bill is not passed soon, if the Forest Service in conjunction with Sealaska does not move more vigorously, we could well see the last mill in the Tongass close within the next year or so.

Senator MURKOWSKI. Let me ask you a question that has been raised by the opponents to this bill. It has been suggested that Sealaska is essentially cherry picking, that they're taking the best areas, the best timber lands through this bill. I guess I look at this differently. I recognize that within the legislation with the future sites, with the sacred sites, you're barred from timber development, mineral development on there. You have essentially, as my count, about 39,000 fewer acres of old growth timber that you would otherwise be entitled to.

Can you speak to the assertion that somehow or other you are cherry picking the best lands?

Mr. MALLOTT. One of the reasons, Senator Murkowski, that I made the opening statement that I did and did not speak directly to the elements of the legislation is based upon some of those comments. It seems like when it comes to dealing with the kinds of issues with the ownership by natives that we're talking about that somehow there's always another impediment. Somehow you have to take second place, that somehow there are other intervening and

overriding public policy circumstances that inhibit any meaningful action on your behalf.

But we were part of what is called the Tongass Futures Roundtable, a gathering of all of the many interests in the Tongass National Forest, convened for the purpose of trying to wrestle with all of the issues that we have talked about here and in the past. One of the clear early discussions was about the need to begin thinking about second growth harvest and management in the Tongass. Sealaska has already been managing its harvest areas. We could well have selected old growth within our current withdrawal areas and had quite large harvests of that growth.

But we, wide eyed, said let's become involved with this larger public effort to create a sustainable, long term, second growth industry. We knew that it would cause Sealaska to give up early profitability for long term sustainability. We were willing to do that.

We have no desire to be old growth harvesters. We want to have a sustainable industry over time. I'd just like to make a quick comment on the notion about export——

Senator WYDEN. Let me interrupt only to say I've been called to the Capitol for a meeting. Senator Murkowski has graciously said that she is going to stay with it now until she has her questions answered. Then Senator Tester I know has some questions as well.

So let me hand this to Senator Murkowski. Just tell our witnesses again, our thanks for making the trip. We're going to follow up with all of you.

It's our objective to try to bring folks together. Certainly there is a wide divergence of views on some of these questions. But this committee has a good track record of trying to find common ground on contentious natural resources issues. That's what we're going to try to do again.

So, Senator Murkowski, thank you for taking it at this point. My apologies to witnesses, but Senator Murkowski will ask her questions and Senator Tester will have some as well. I thank my colleague.

Mr. MALLOTT. Thank you, Mr. Chairman.

So the movement to select second growth was not about cherry picking it was trying to be responsive to what we believe was an appropriate public policy imperative. With respect to sacred sites there had been concern within the native community about public management of sites that are identified and understood then recognized by all to be sacred in the truest sense of the word. We were wanting, moving into the long term future, to have the ability to manage those sites in a way that was appropriate to our ownership as native peoples.

We have made it clear and in writing, not necessarily in the legislation, but in writing, that sacred sites would not be used for any purposes other than for those identified in the designation. It was not cherry picking. It was consciously looking at specific sites that were of utmost importance to the native community by way of history, by way of tradition, by way of culture, by way of past occupancy. Ultimately it was serendipitous, even for us to some degree, to find and to identify some of those sites.

With respect to future sites, there were multiple reasons. One of the critical ones for me was having lived in the forest for all of the years that I have and seen long term forest management, short term forest management, was to try to create the way for local residents, local citizens, who lived in the region, to have a seat at the table of Federal management decisionmaking over time. We believe that those sites could help us gain that.

Also, our presence in the Tongass National Forest is pervasive. It extends from Yakutat to South of Saxman, in the South, Yakutat, on the North. There is not a single place in the forest that has not, at one time, been ours and impacted by our presence and hugely important to us.

So the notion of future sites was built around that basic value structure. That philosophy and the idea then in addition, was to how can we, when we have villages scattered throughout the region, have sites that were relatively close to each of them that could impact them in a positive way either culturally, through the development of energy sites, through the use for cultural and traditional and recreational purposes. But it was that simple and that straightforward.

If looking at the region and saying these sites are important to us and they would meet these values, is called cherry picking, then we're guilty. But to us it was not that at all. It was trying to create the opportunities that we've discussed clearly in the bill.

We also have Sealaska has met time and again with every single community, every single interest that has voiced a concern within the region, as has your staff, virtually. Much modification has been made to the full range of future sites. The number has decreased since the first bill was introduced. Even some of the sacred sites have been moved.

So it has been a very iterative to, in my judgment, a very responsible effort to try to gain what we believe is important to us while still being responsive to the other interest within the forest.

Senator MURKOWSKI. I have more questions that I would like to direct to you all. But recognizing Senator Tester that we've got a series of votes coming up shortly, I'd like to defer to you for your questions. Then I'll come back, but——

Senator TESTER. You're way kind, Senator Murkowski.

Senator MURKOWSKI. No.

Senator TESTER. I'll add 5 minutes from the clock there if I'm not done on time.

Senator MURKOWSKI. No, no. Please, you get double time because I have taken twice mine. So it's all yours.

Senator TESTER. Thank you very much. Thank you all for your testimony. I very much appreciate everybody who testified today on different bills.

Sherm, Mr. Anderson, we've talked before about how some 20 years ago that you hauled around anti-wilderness signs at various rallies. I know emotions run high when people look at you and they're trying to proceed and take away your business, your livelihood. But then here 6 years ago you sat down with the very folks you had been fighting with.

Could you tell me what it was like to try and find common ground? What made you do it?

Mr. ANDERSON. OK, Senator Tester.

What it was like was very tense, very tense. Obviously I do remember those 15 to 20 years ago when we had fierce discussions. Our unwillingness to bend and the conservation group's unwillingness to bend has brought us to where we are today. That's nowhere for any of us.

Our forests are not being managed. Our conservation partners see that as well as we see that. We see the potential of what is sure to come. That's catastrophic fires that no one can control.

With that then we were able to sit down and inch by inch per say, come to agreement on certain areas on our National Forests. As you stated, this is somewhat of a pilot. We picked the Beaverhead-Deerlodge and the other two forests that in Montana to see what we could do by working together verses pulling at each other apart and getting nowhere.

Senator TESTER. You know one of the objections that when this bill was here 2 years ago, one of the objections was why you doing this? There's no market for the wood anyway. Could you give me kind of a state of the landscape as far as marketability of your wood?

Mr. ANDERSON. I can. You know, that is often quoted—misquoted, I would say that there is no market for the wood. Even in these distressed times where everyone knows the housing market is as bad as it gets. We, ourselves, never have any problems moving the wood.

There's always a demand for lumber up to a certain point, obviously. With the current situation with the Chinese exports especially, but with also the Japanese exports coming on to meet their needs, it is spreading inland and is affecting us directly. Because anything that is not tied to the National Forest, is going on the water and going overseas, if possible.

So there are markets that are developed. When that happens and where we're located in the inland area of Montana. Then what small domestic market is here, even in the recessed times, we don't have any problems moving our wood.

The problem is obtaining a resource, timber, at affordable prices that we can obviously continue to operate in distressed times.

Senator TESTER. Supply.

Mr. ANDERSON. Supply.

Senator TESTER. Wally Congdon, I've read your testimony. I very much appreciate your suggestions. As Senator Barrasso said, great testimony. I'll take a close look at them.

Could you give me your general overall thoughts on the bill just as you see it, just as a cattleman?

Mr. CONGDON. My thoughts are this.

One, it's not just about the infrastructure for trees. It's the infrastructure for outfitters and guides. It's the infrastructure for grazing. It's the infrastructure for recreation. It's the infrastructure for local economies who have tourists, etcetera.

So what the bill overall does for the first time is it truly takes all the things from multiple use that NFMA/FLPMA talk about and you plug them all into a package. There were times I was on the other side of the table from Sherm Anderson 25 or 30 years ago as well. He doesn't know it. But I do.

Be that as it may, what it did for the first time is it put together that way. So my thoughts on the bill in some senses a camel is a horse designed by a committee. At the other time, this does not look like a camel. This looks like a very good horse.

That being the case, I think overall, you couldn't have done a better job. It does set up to preserve grazing, preserve agriculture, preserve recreation, preserve outfitters and guides. What that to me is is agriculture which is silviculture and logging, Senator, are the same.

It is five letters that everyone forgets. It is the practice, the process, the procedure, the science and the art of producing something whether it's a substance, a food, a fiber, a piece of wood, for use by society and people. The problem is the guys who can drop a tree on a stake 70 foot away are quickly falling by the wayside because that culture, that ability is quickly going.

The people who can rope a cow are quickly becoming fewer in numbers. The guys who can pack a mule to haul salt become lower in numbers if we don't preserve, protect and provide the opportunity for what your bill does. So my observation overall is well done after 30 years. It took us a long time to get here. I'm really happy to be here for it.

Senator TESTER. We're happy to have you here.

One more question for you, Mr. Congdon. There have been a number of accusations this bill was formed in secret. Some will even claim that this hearing is not public. Can you talk about the transparency this bill has experienced in Montana inclusion of suggestions and even by the folks who oppose it?

Mr. CONGDON. Yes.

No. 1, there were a number of meetings locally, etcetera. County commissioners, city officials attended them, MWA, etcetera. People all attended them and did drafts and comments early on. It was public.

When the first drafts were done a year and a half ago, I did comment on them. Frankly, your staff and you, did listen. You made the changes we requested like save grazing, save water rights, make an effort, unload some lands from the REPA, etcetera. The need to be released for public use now, etcetera.

So it has been an open policy, an open thing. What I tell a lot of those people who are complaining is very simply this: there's a ball game. If you're going to play, bring a team. If you don't show up, don't be surprised at the end score.

All the people I know of who complained and said, this is private, this is not public, that you did this through back doors, I ask every one of them show me your comments on the first draft. Guess what I got back from every person. Nothing, because they made no comments, Senator.

Those of us who did, it was public. It was open. Job well done. I think that's really important.

Senator TESTER. I want to thank, you know, we've got folks from Alaska here. We know how far they travel to get here. Montana is not exactly a hike across, well it's a pretty big park, let's put it that way.

I thank you coming the 2,000 miles to Washington, DC, to testify, both of you. I appreciate your being here, Bonnie. But I really

appreciate Senator Murkowski's openness in allowing me to be a part of this committee when I don't sit on it. So thank you.

Senator MURKOWSKI. Thank you, Senator Tester. I appreciate your comments. To both gentlemen I would echo the comments of Senator Tester.

We know what it takes coming from Alaska to haul yourself across country to be here for a very brief period of time. We appreciate your appearance here today as well as the work that you clearly have done on this. So thank you.

I just have a few more minutes. As I mentioned we've got a series of votes that are starting in just less than 10 minutes now. But I just wanted to follow up.

Ms. Poelstra, I convey to you the same appreciation. I know it's not easy getting in and out of Edna Bay. So thank you for your efforts in being here.

You have stated in your testimony and in your written as well, the assertion that somehow or other Sealaska is unjustly enriched. I think it is important to recognize that with this legislation Sealaska doesn't get one more acre than they are entitled to under the agreement in ANCSA 1971. So I guess I would ask you to explain why you feel it is unjust?

You've also used the term "land grab" that assumes that there is more that is made available to Sealaska than they would otherwise be entitled to. Can you just clarify for me what you mean when you say it is unjust that Sealaska should receive this entitlement?

Ms. POELSTRA. When I say it's unjust I'm referring not to the total number of acres. I don't think anyone has ever challenged the acreage that they still have due them. I know that the amount is yet to be determined. But I've never seen anyone really challenge that.

What I consider unjust is the acreage that they're taking. What I use to base that opinion off of, I don't know if you're familiar with the Albert Report. It was published in March of last year.

In that report it was based off of Senate bill 881 at that time. You know, at that time all ten parcels that Sealaska was selecting were ranked in the top 10 percent of trees on the Tongass. Those selection areas have large tree forests. It was ten times more than the average on the Tongass.

They had tar spores that were 31 times more than the average on the forest. Deer habitat that was 3.5 times more than average and salmon habitat that was 1.2 times more than average. Those are the things that I'm referring to that are unjust.

The problem——

Senator MURKOWSKI. But in fact we worked quite aggressively to address many of those concerns that were raised in making the changes between the legislation from the prior Congress to this. Would you agree?

Ms. POELSTRA. You know, I haven't seen any updated reports in regards to this bill. It's only recently been introduced. There's not a lot of information or details out yet. So, you know, I would be interested in seeing just what those adjustments did to change those figures.

In regards to the future sites I used Icy Straits as an example. That is something that none of the other regional corporations were given the opportunity for. That's one of the things that makes people believe across Southeast Alaska and even in other parts of the State that it has the potential for people to ask to reopen ANCSA and to readdress a balance in the difference in what Sealaska is being allowed to select.

Senator MURKOWSKI. Let me ask, and I will direct this probably to you, Jaeleen, as counsel for Sealaska because this is an issue that has been presented before that somehow or other with this legislation and Sealaska being allowed to select outside of the original entitlement areas that this opens the door under ANCSA for the other 11 Alaska Native Corporations to come back in and basically reselect. Can you speak to that, please?

Ms. ARAUJO. Yes, Senator Murkowski. Thank you for the opportunity to provide an answer to that question.

I guess I would have to point to the fact that Sealaska region, the region that we are in, was treated very differently in ANCSA. As was testified to before, there were very strong political interests restricting us to small areas from which to make our selections. We had 10 boxes drawn around 10 of our villages. Congress said that is where you make your selection.

That is not the same limitation that was put on the other regions. In fact, I know that other regions were basically told—I mean, their villages were restricted, but not their regions. They could select basically any unappropriated, any unreserved areas in their region.

If they couldn't find land they could actually administratively petition the Secretary to help them find alternative lands. We don't have that same right in Southeast Alaska. We were limited to certain boxes. So I don't think allowing us to go outside of those withdrawal areas opens up some box for other communities.

But I would also——

Senator MURKOWSKI. That is correct to note then that Sealaska is the only corporation situated that way.

Ms. ARAUJO. Yes. But I would also note that ANCSA has been amended more than 30 times since it was enacted. It was, as we all know, a Congressional experiment to not create more reservations. But to do something different to promote economic development so that native people could provide for themselves.

But, you know, with this legislation being so different there have been a number of inequities and problems that have been identified over the years and corrected. We think that this is one of those. I also would submit that if other regions have similar inequities or problems in their region, then they should present those to Congress and have the similar public process that we're going through to have their issues, I guess, judged and identified and to determine if they have a right to have some congressional action as well.

Senator MURKOWSKI. Is it not accurate though that Sealaska is the last native corporation to finalize their selections?

Ms. ARAUJO. I don't know about the exact situation of all the others. But I think we are one of the last. I know that all the other regions support us in getting our remaining selections.

I haven't heard from any other regions, and I've met with them many times, that they have similar circumstance and need to come to Congress. So based on the information I have now I don't think any others are similarly situated.

Senator MURKOWSKI. OK.

I wish that we could spend more time here this afternoon just in putting out on the record the information that I think has been critical in developing this legislation as we have advanced. As I mentioned and as has been mentioned by several of you, this has been years in the making and an extraordinarily open process throughout. I wish that I had been able to be in every of the affected communities but I simply was not able to do that. I was fortunate enough to be able to have staff that went and listened to the concerns.

We have earnestly tried to address as much of the competing concerns and issues as we possibly can. But at the end of it you recognize that you cannot make every interest 100 percent happy. So in an effort to get to where I was suggesting to Mr. Sherman that at some point in time you've got to get to the end of the talking process and actually resolve the issue, bring closure, finalize the entitlements, work to address the situation with the Sealaska shareholders while at the same time doing it in a prompt manner so that we can help a struggling Southeastern economy.

So it's not something that I think can continue to drag on for additional years. Because I think then, you get yourself in a situation where these gentlemen are talking about where there is no infrastructure within the industry to hang on to, to rebuild. It is gone.

So I heard the chairman of the subcommittee indicate that he is interested in working with us. We will continue in this process. But it is my hope that we will be able to move the bill, this Sealaska legislation, through the committee, move it to the Floor.

I would anticipate at that time the process is what the process is. But it is important that we finally get to that point where we are able to bring a resolution to this issue. It is one that I admit has brought controversy between neighbors. That is unfortunate.

But at the end of the day, we are all still neighbors there. We need to figure out how we remain in our communities. I'm hopeful that with passage of this legislation the strength of the Southeastern economy can continue in an upwards trajectory. We can move on in a way that's good and healthy for all of us.

So I thank you for your efforts. I thank you for your testimony. I thank you for coming all this way. For those of you that have joined from Alaska, I also thank you for your efforts.

Mr. MALLOTT. Thank you, Senator.

Senator MURKOWSKI. Thank you. With that, ladies and gentlemen, we stand adjourned.

[Whereupon, at 5 p.m., the hearing was adjourned.]

APPENDIXES

APPENDIX I

Responses to Additional Questions

RESPONSES OF MARCILYNN BURKE TO QUESTIONS FROM SENATOR MURKOWSKI

S. 233

I understand there are approximately 300,000 acres involved that are currently leased. Some of the companies have indicated a willingness to relinquish their leases without any compensation. Other leaseholders have not reached that agreement. These are valid, existing lease rights.

Question 1. Can you help me understand what percent of the leased acreage is held by companies who are willing to give up their leases without compensation?

Answer. The BLM processes relinquishments when the leaseholders submit them to the BLM. The Department has not requested any relinquishments. To date, the BLM has processed voluntary relinquishments on 79 leases in the withdrawal area covering approximately 184,000 acres (76 of those leases are in the North Fork Watershed of the Flathead National Forest). This amount represents about 75 percent of the acreage leased for oil and gas development in the withdrawal area.

Question 2. How much money has the government received in bonus bids and rents on these leases?

Answer. The Federal government received about $911,000 for the leases within the withdrawal area. These leases are all simultaneous and over-the-counter (no bonus bids). Additionally, leaseholders do not pay rent while leases are under suspension. The Federal government received almost $708,000 for the 79 leases that have been relinquished.

Question 3. Are there steps that could be taken to ensure the government is not liable for a takings claim?

Answer. Because the relinquishments that are voluntary and processed at the request of the leaseholder under procedures set forth in 43 CFR 3108.1, there is no basis for a takings claim.

S. 268

As written, this legislative proposal includes releasing some Bureau of Land Management Wilderness Study Areas (WSA) from Wilderness Study Area status.

Question 4. Other than the moratoria imposed in the recent Continuing Resolution preventing any funds being spent on implementing Secretarial Order 3310; what would prevent the released Wilderness Study Areas from being administratively protected under the Wild Land Policy?

Answer. Secretary of the Interior Ken Salazar confirmed that, pursuant to the 2011 Continuing Resolution, the BLM will not designate any lands as "Wild Lands." The Department will work in collaboration with Members of Congress, states, tribes, and local communities to identify public lands that may be appropriate candidates for congressional protection under the Wilderness Act.

The BLM's open, public land use planning process determines how lands with wilderness characteristics (LWCs) are to be managed. Through this process, LWCs may be managed to protect their wilderness characteristics or for other multiple uses.

Question 5. Have there been any meetings at the Council for Environmental Quality or the White House attended by any Department of the Interior or Bureau of Land Management personnel regarding the Wild Land Policy, or Secretarial Order 3310 since the Continuing Resolution was signed into law on March 15, 2011?

Answer. I am not aware of any such meetings.

Question 6. Have there been any internal meetings in the Department of the Interior or within the Bureau of Land Management to discuss where the Secretarial Order 3310 was discussed or how to move forward with the Wild Land Policy once the moratorium is lifted?

Answer. There have been a number of discussions within the BLM and the Department about Secretarial Order 3310 and Section 1769 of Public Law 112-10 prohibiting the use of funds during fiscal year 2011 "to implement, administer, or enforce that order."

(If yes)

Question 7. What was the nature of the meetings?

Answer. The meetings and discussions in which I participated involved how the Department would comply with applicable law, including both P.L. 112-10 and the Federal Land Policy and Management Act (FLPMA).

Question 8. Please also provide a list of the names of the individuals in those meetings and what agency or organizations they represented.

Answer. These internal meetings included representatives from the Department of the Interior. I did not keep any lists of participants in these discussions.

APPENDIX II

Additional Material Submitted for the Record

[Due to the large amount of materials received, only a representative sample of statements follow. Additional documents and statements have been retained in subcommittee files.]

U.S. DEPARTMENT OF AGRICULTURE,
Washington, DC, October 11, 2010.

Hon. JON TESTER,
U.S. Senate, 724 Hart Senate Office Building, Washington, DC.

DEAR SENATOR TESTER: The Obama Administration and the U.S. Department of Agriculture (USDA) have laid out a vision for forests in the United States that emphasizes the importance of restoring our forests to conserve water; to ensure our forests are resilient in the face of insects, disease and climatechange; and to provide for vibrant local economies. Over the last several months, your staff has worked closely with the Forest Service to refine legislation to manage and restore forests on three National Forests in Montana that, if enacted and adequately funded, would not only be consistent with our vision, but would provide significant benefits, including a full suite ofrestoration activities for the people, economy, and forests of your state.

When I visited Montana with you last winter, I was impressed by the challenges facing Montana's forests as a result of the mountain pine beetle epidemic and by the need to maintain forestry jobs and infrastructure in order to restore our forests. I was also greatly impressed with the partnership among former adversaries nvironmentalists, members of the forest industry,recreationists, county commissioners, and others-who have joined forces to address the threats facing Montana's forests, to support local communities, and to promote the designation of new wilderness areas in Montana for the first time in 27 years.

With a limited number of legislative days remaining in this Congress, I know you are considering a number of approaches to enacting legislation that would codify the work of this partnership into a region-specific pilot project. No matter which approach is taken, I understand the legislation would establish performance standards for 70,000 acres of mechanical treatment on the Beaverhead Deeriodge National Forest and 30,000 acres on the Kootenai National Forest over the next 15 years. I believe these goals are ambitious, but sustainable and achievable. As with any new program or pilot, providing sufficient funding will be critical to allowing the Forest Service to prepare and implement mechanical treatments using stewardship contracts, timbersales contracts, and other means, Since there are many high-priority programs throughout the National Forest System, we cannot shift funding from other regions to fund these treatments. Thus, I support the inclusion of language in this proposed legislation that states it will not impactfunds from other regions.

Our nation's forests are changing due to forest health issues, effects of climate change, and other influences. These changes require that we develop and implement proactive measures for land management. Further, USDA and Congress must work together to help industries explore viable wood power generation and other biomass facilities so that we can maintain viable wood marketsfor the future. Markets for woody biomass could be critical in financing treatments in areas with beetle-killed timber. Since timber impacted by beetles will deteriorate over time, I believe an ambitious ramp up to perform mechanical treatment would be beneficial. I also believe legislation needs to allow for an evaluation of the treatments in light of the development of woodmarkets and the continuing budgetary requirements after 5 years to ensure that the purposes and vision of the bill can be successfully implemented.

As the Administration expressed in testimony on S. 1470, we have reservations about legislating specific treatment levels and other aspects of our forest plans.

However, the holistic package of mechanical treatments, wilderness designations, and job creation, along with the collaborativeapproach and hard work of the stakeholders in Montana, and your work directly with the Forest Service, ensure that this legislation can serve as a model for similar efforts elsewhere.

Let me conclude by thanking you for your leadership in forest management issues and I, my staff at USDA, and Chief Tidwell stand ready to assist you in moving this legislation forward.

Sincerely,

THOMAS J. VILSACK,
Secretary.

THE WILDERNESS SOCIETY,
Washington, DC, June 3, 2011.

Hon. JEFF BINGAMAN,
Chairman, Senate Committee on Energy and Natural Resources, 304 Dirksen Senate Office Building, U.S. Senate, Washington, DC.

DEAR CHAIRMAN BINGAMAN: On behalf of The Wilderness Society, I am writing to offer our views on the bills indicated below that were the subject of the Committee's hearing on May 25, 2011. The Wilderness Society is the leading public-lands conservation organization working to protect wilderness and inspire Americans to care for our wild places. Founded in 1935, and now with more than 500,000 members and supporters, TWS has led the effort to permanently protect 110 million acres of wilderness and to ensure sound management of our shared national lands. I ask that this letter be made a part of the hearing record.

S. 233—NORTH FORK WATERSHED PROTECTION ACT OF 2011

The Wilderness Society (TWS) supports without qualification S. 233 and urges its speedy passage. Glacier National Park, the North Fork Flathead River, as well as much of the national forest land addressed in this bill, are of national significance and generate substantial and renewable economic benefits to both local communities and the state of Montana. In addition, passage of this bill ensures that the United States "acts by example" and fully engages in the coordinated, partnership approach requested by the province of British Columbia when they agreed in early 2010 to take action to protect the Canadian side of the North Fork Flathead from coal, oil and gas, and mining development.

First introduced last Congress, this bill has received significant public review and media coverage. Yet, there is almost no active opposition in Montana to this legislation, as to our knowledge, no organized group, relevant elected official, Montana newspaper, or affected constituency has spoken out against the North Fork Watershed Protection Act. Instead, there has been an impressive outpouring of diverse and formal support from local businesses, civic groups, Chambers of Commerce, City Councils, sportsmen and conservation groups, and others. Consider that in a 4/5/2010 letter to the Montana delegation, the Kalispell Chamber of Commerce praised this legislation as "being good for business" further stating, "The Chamber wishes to ensure that Glacier Park, the North Fork River Valley, and Flathead Lake remain as economically productive as they are today. We think that oil and gas development in the Whitefish Range would be inconsistent with our interest to see the entire watershed protected from upstream (Canadian) pollution."

Indeed, passing S. 233 would not only help protect the United States side of this trans boundary and ecologically rich watershed but also help ensure resolution of the threats on the upstream, side. Swift passage of this bill is a critical step toward implementing the International Flathead agreement that was signed in 2010 by Montana Governor Brian Schweitzer and British Columbia Premier Gordon Campbell. It banned all types of mining and oil and gas extraction in the entire Transboundary Flathead and committed each country to take action to protect its respective portion of the watershed. It should be noted that since signing of this agreement, over 80% of the federal leases in the area covered by S.233 have been voluntarily donated back to the government in recognition that this is an inappropriate place for oil and gas development.

TWS enthusiastically supports S. 233 and sincerely thank Senators Baucus and Tester for their leadership on this issue and their ongoing dedication to protecting this nationally important portion of the Crown of the Continent Ecosystem.

S. 375—GOOD NEIGHBOR FORESTRY ACT

Summary of Legislation

S. 375, the "Good Neighbor Forestry Act," would allow State foresters to undertake a variety of forest and rangeland management activities on U.S. Forest Service and Bureau of Land Management lands in the West through "Good Neighbor" contracts and cooperative agreements. Good Neighbor authority could be used for a variety of "restoration and protection services" such as removing insect-infested trees and reducing hazardous fuels. The bill would permit the State foresters to subcontract those services to private companies and would exempt Good Neighbor projects from certain timber sale contracting requirements of the National Forest Management Act. Projects implemented by the States through cooperative agreements would also be exempt from federal contracting laws, including federal wage and liability requirements. However, the Forest Service and BLM would still be responsible for making project decisions under the National Environmental Policy Act. Under S. 375, the Good Neighbor authority would apply to National Forest System and BLM lands in all of the western states and would last for 10 years.

GAO Report

In February 2009, the U.S. Government Accountability Office issued a detailed report evaluating the use of the Good Neighbor authority. The GAO concluded that the authority can help land managers efforts to improve forest conditions and help prevent severe fires by allowing federal and state agencies to work more closely together to treat lands across ownership boundaries. However, the GAO raised concerns about potential problems with "timber accountability," especially if the Good Neighbor authority is extended to additional states. The GAO recommended that the Forest Service and BLM "first develop written procedures for Good Neighbor timber sales . . . to better ensure accountability for federal timber."

Analysis

The timber accountability problem with the Good Neighbor authority provided by S. 375 stems largely from the legislative exemption from important requirements in the National Forest Management Act (NFMA) that are aimed at avoiding fraud and conflicts of interest in federal timber sales.

First, the legislation exempts Good Neighbor projects from Section 14(g) of the NFMA, which requires that Forest Service employees conduct the designation, marking, and supervision of timber sales and that those employees "shall have no personal interest in the purchase or harvest of such products and shall not be directly or indirectly in the employment of the [timber sale] purchaser." This exemption is especially problematic because S. 375 also allows state foresters to subcontract the timber sale preparation to private companies. Therefore, unless prohibited by state or local laws, the legislation could allow subcontracting timber industry employees to select what trees are cut from federal lands.

Second, the legislation exempts Good Neighbor timber sales from Section 14(d) of NFMA, which requires the Forest Service to advertise timber sales before awarding contracts. Thus, a Good Neighbor timber sale could be awarded at minimum appraised value to the same timber company that laid out the sale.

A third significant concern with S. 375 is that it vastly expands the potential use of Good Neighbor authority. The original Colorado legislation only allowed Good Neighbor authority to be used "when similar and complementary watershed restoration and protection services are being performed by the State Forest Service on adjacent State or private land." This limitation makes good sense, since the legislation is intended to benefit the "neighbors" that are adjacent to federal lands. In contrast, S. 375 would allow "Good Neighbor" authorities to be used anywhere on Forest Service and BLM lands, irrespective of proximity to non-federal lands. This vast geographic expansion of the Good Neighbor policy raises serious questions about the potential for excessive control of federal land management by State foresters and private industry subcontractors throughout the West.

In addition to the concerns over environmental impacts of expanding this authority, some have questioned whether forestry worker rights, including protective federal wage and overtime standards and requirements would be undermined by ceding contracting authority to states. The specter of non-competitive sole-source contracting is seen as particularly disconcerting.

S. 375 proposes a vast and unwarranted expansion of the potential use of that authority beyond its original purpose. Furthermore, the legislation lacks important safeguard against timber sale abuse which would become increasingly likely if the Good Neighbor authority were extended to other states. The Wilderness Society opposes S. 375 as currently drafted.

S. 714—Federal Land Transaction Facilitation Act

The Wilderness Society supports S. 714, which is authored by Senator Jeff Bingaman and co-sponsored by Senators Tester, Wyden, M.Udall, and T.Udall. It would reauthorize the Federal Land Transaction Facilitation Act for 10 years before it expires in July 2011. The Federal Land Transaction Facilitation Act (FLTFA) of 2000 authorizes Department of Interior (DOI) and the U.S. Forest Service to use the proceeds from sales of BLM lands to acquire inholdings in federally designated areas such as BLM areas, national forests, national parks and national wildlife refuges. FLTFA provides federal agencies in the eleven Western states and Alaska with an important new funding source to complement the Land and Water Conservation Fund, land exchanges, other federal grant programs, and state and private funds.

Reauthorization of the Federal Land Transaction Facilitation Act (FLTFA) will provide opportunities for economic growth, sportsmen's access and wildlife protection in the western states. FLTFA is a fiscally responsible land tenure tool for the West. Through a "land for land" approach, the BLM can sell land to private land owners, counties, companies and others for ranching, community development and various projects. These sales create jobs and generate funding for BLM, USFS, NPS and USFWS to acquire critical inholdings and edgeholdings from willing sellers. The sales revenue allows agencies to acquire high-priority lands with important wildlife habitat value, recreational access for hunting and fishing and other agency priorities. Because of FLTFA's great benefits for local communities and the outdoors, we hope to see this important western program reauthorized before it expires in July 2011.

S. 730—THE SOUTHEAST ALASKA NATIVE LAND ENTITLEMENT FINALIZATION AND JOBS PROTECTION ACT

The Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act (S. 730), commonly called the Sealaska Bill, would destabilize southeast Alaska's economy, frustrate the U.S. Forest Service's transition away from the old boom-and-bust old-growth dependent logging economy to one based on sustainable land management and healthy local communities, and threaten many of the most popular and productive areas of the Tongass National Forest. For these reasons, The Wilderness Society opposes the Sealaska Bill.

Sealaska Corp.'s land entitlements can be settled without new legislation. The Alaska Native Claims Settlement Act (ANCSA) granted 355,000 acres of land from specific areas to Sealaska Corp. in 1971 while providing certain protections, in the form of δ14(h)(1) covenants, for areas of cultural and historical values. While The Wilderness Society recognizes and supports Sealaska Corp.'s right to claim its outstanding entitlement, Sealaska Corp. should not be allowed to rewrite the rules to seek land that was not allotted to it in the original agreement and undue important protections for cultural and historic sites.

The Sealaska Bill targets some of the most important and productive lands in southeast Alaska. It would transfer 79,000 acres of the best forestlands in the Tongass to Sealaska Corp. Additionally, many of the futures sites slated for privatization under the bill are on the edge of designated Wilderness areas, or are hunting and fishing hotspots utilized by local outfitters and subsistence and recreational users. The Tongass is one of the last remaining intact temperate rainforests in the world, supporting all five of North America's Pacific salmon, steelhead and resident trout, brown and black bear, Sitka black-tailed deer, bald eagles, wolves and various other fish and wildlife species. The lands targeted in this bill comprise many of the most important and popular forestlands in the Tongass, and would threaten important fish, wildlife and forestland resources for the benefit of a select few at the expense of the majority of southeast Alaska's residents and families.

The Sealaska Bill would destabilize southeast Alaska's economy and lead to a significant loss of local jobs in the fishing, tourism and recreation industries—the real economic drivers of the region. Multiple recent economic studies have shown that stable and diverse local economies in southeast Alaska depend upon the long-term productivity and sound management of forestlands and fish and wildlife. Fishing, one of the region's most valuable industries, accounts for more than 10% of local jobs and contributes an estimated $986 million annually to the local economy. In contrast, the Tongass timber industry currently provides less than one percent of local jobs and "has cost U.S. taxpayers a quarter billion dollars over the last eight years and over a billion dollars since its inception." If the bill passed, current protections—such as permanent stream buffers and the requirement for sustained yield management—will no longer apply and the transferred lands would be logged for foreign export while long-term sustainable jobs and economic security for the region would be cut from southeast Alaska communities.

The Sealaska Bill would frustrate the Forest Service's efforts to transition away from the old boom-and-bust old-growth dependent logging economy to one based on restoration and renewable resources. The long-term economic viability of southeast Alaska communities depends on sustainable management of the region's renewable natural resources and a shift away from short-term old-growth dependent clearcutting. Recognizing this, in May 2010 local Forest Service leadership announced that it was working to develop a program to "help communities transition to a more diversified economy by providing jobs around renewable energy, forest restoration, timber, tourism, subsistence, and fisheries and mariculture." The Sealaska Bill is a giant step backwards in terms of stabilizing southeast Alaska's economy. It cherry picks the most productive remaining timber lands, taking advantage of a U.S. taxpayer-funded road system for the gain of a select few. Without these accessible forest lands, the Forest Service does not have the resources necessary to follow through on its goal of transitioning the region to a stable, restoration-based economy. This bill would undercut the agency's efforts to create dependable, good-paying jobs and economic stability in the region.

The future of southeast Alaska's forest-dependent rural communities, and the Tongass' unique temperate rainforest, lies in moving away from intensive boom-and-bust logging practices of the past to an economy based on fishing, recreation, tourism and sustainable management of forestlands. If passed, the Sealaska Bill would threaten the region's long-term economic stability, make it impossible for the Forest Service to establish a restoration-based industry through its transition framework, and clearcut much of the most productive and important remaining forestlands in southeast Alaska at the expense of southeast Alaska's major job-producing industries: fishing, tourism and recreation. Because the Sealaska Bill is not in the interest of local jobs and families, and undercuts regional economic stability, The Wilderness Society opposes the Sealaska Bill.

Sincerely,

WILLIAM A. MEADOWS.

TROUT UNLIMITED,
Arlington, VA, May 25, 2011.

Hon. JEFF BINGAMAN,
Chair, Senate Energy and Natural Resources Committee, U.S. Senate, Washington, DC.

RE: Trout Unlimited Supports the Forest Jobs and Recreation Act and North Fork Watershed Protection Act

DEAR CHAIRMAN BINGAMAN, On behalf of Trout Unlimited (TU) and its 140,000 members, I write in support of S. 268, the Forest Jobs and Recreation Act and S. 233, the North Fork Watershed Protection Act. These two bills are subjects of your hearing on Wednesday, May 25th. S. 268 will permanently protect nearly one million acres of Montana's spectacular backcountry and establish 670,000 acres of wilderness, the first new wilderness designations in Montana in over twenty-five years. The forest restoration projects created by this bill will focus on restoration of degraded forest lands and reduction of overall road density and the legislation strives to protect the integrity of roadless areas while complying with all existing laws, policies, regulations, and forest plans.

More than 2,000 TU members live and work in communities around the National Forest and BLM areas in S. 268, including Butte, Anaconda, Deer Lodge, Sheridan, Twin Bridges, Silver Star, Philipsburg, West Yellowstone, Cameron, Dillon, Ennis, Bozeman, Missoula, Drummond, Ovando, Bonner, Whitehall, Libby and Troy. Most members in these areas are long-time or native Montanans and they fish, hunt, hike, camp, drive, snowmobile, ski, ride horses, and collect firewood, berries and Christmas trees from these lands. A number have livelihoods directly tied to these lands, working as guides and outfitters, loggers, ranch hands, staffers in natural resource agencies or operators of small businesses.

More than five years ago, spurred by the recognition that National Forests in western Montana were not living up to their potential to support healthy fish and wildlife and provide jobs and recreational opportunities for local communities, TU and other local stakeholders came together to develop a shared vision for forest management. The resulting compromises provided the basis for an important part of S. 268, which would protect fish and wildlife habitat through the designation of 670,000 acres of new wilderness and more than 300,000 acres of special management and national recreation areas, restore degraded habitat through the removal of old roads and blocked culverts, reduce the risk of wildfire through targeted fuel reduction projects, and create jobs for local communities through stewardship con-

tracting. If implemented, the bill could yield significant benefits to fish and wildlife, water resources, and nearby communities.

TU has a long record of working with farmers, ranchers, industries, and government agencies to protect and restore trout and salmon watersheds nationwide. In recent years, TU has bought gas leases in Montana to help protect the Rocky Mountain Front, helped to establish a successful roadless area plan for the National Forests of Idaho, and helped to establish and fund historic, broadly-supported dam removal projects from the Penobscot River in Maine to the Klamath in California and Oregon. Finding solutions to vexing resource problems is a hallmark of what we do.

Drawing on these cooperative experiences, we have worked to develop the solutions contained in S. 268 with a diverse group of stakeholders in Montana. Bruce Farling, Montana TU's Executive Director, has led TU's efforts on the Beaverhead-Deerlodge, and TU volunteer Tim Linehan has been a leader in the Kootenai initiative. The partners in the region have done courageous, outstanding work. TU strongly supports S. 268, we deeply appreciate the work of Senator Tester and his staff for introducing it, and we urge the Subcommittee to support it.

We realize that some people have concerns about some of the provisions of this bill. We do not claim to have all the answers and look forward to working with the Subcommittee, the Forest Service, the Obama Administration, and all others who share the goals of the bill. We urge others with criticisms to provide alternatives that will achieve the goals of the bill, namely protecting vital fish and wildlife habitat, restoring forests, and sustaining local communities.

BACKGROUND ON THE DEVELOPMENT OF S. 268

In an August 14, 2009 speech in Seattle, Agriculture Secretary Tom Vilsack stated that Americans must move away from polarization and ". . .work towards a shared vision—a vision that conserves our forests and the vital resources important to our survival while wisely respecting the need for a forest economy that creates jobs and vibrant rural communities." Through a collaborative grassroots effort dating back more than four years, a broad range of partners has done just that, and the resulting vision has provided the basis for the legislation introduced by Senator Tester.

Prior to this collaborative process the forests were mired in stalemate that failed to protect and restore fish and wildlife. Wilderness has not been designated in the state of Montana in over 25 years, despite the broad recognition of the need to protect quality fish and wildlife habitat and public support to do so. There are hundreds of impassible culverts on the forests that fragment trout habitat. Dense networks of obsolete roads restrict elk security and movement, and contribute heavy loads of sediment to streams.

Due in part to these impacts, native salmonids, some of which are listed or candidates for listing under the Endangered Species Act, occupy but a small fraction of their historic range. Decades of fire suppression has produced homogenous even-aged stands of forests, which along with climate change and the pine bark beetle infestation increase the risk of unnaturally intense fire. The Forest Jobs and Recreation Act will enable the Forest Service to address these long-neglected needs.

The Forest Jobs and Recreation Act results from three grassroots efforts in which TU in Montana was a principal in two efforts (Beaverhead-Deerlodge and Three Rivers) and a supporter in the third (Blackfoot-Clearwater). The bill is Montana-made, and it has generated unprecedented consensus among many Montanans of different stripes that validates the notion that collaboration is vital to developing long-term popular support of public lands management.

THE FISH AND WILDLIFE BENEFITS OF THE FOREST JOBS AND RECREATION ACT

Now more than ever, as changes in climate increase the challenges faced by forest managers and ecosystems, it is imperative that national forests are managed in ways that promote resiliency. At its heart, S. 268 is a climate change adaptation strategy. By federally protecting the highest quality landscapes and then reconnecting them to adjacent areas through watershed restoration, S. 268 will help to maintain abundant fish and wildlife populations while providing multiple benefits to human communities through good paying jobs. This can be done through the following actions:

1. Protect the highest quality lands and waters

The Forest Jobs and Recreation Act would protect as federal wilderness 670,000 acres of undeveloped country in 25 areas, as well as create over 300,000 acres of special management and national recreation areas. By doing so, it will protect crucial sources of clean, cold water as well as essential habitats for wild and native

trout in the headwaters of some of the nation's most storied trout waters, including Rock Creek and the Madison, Beaverhead, Ruby, Jefferson, Big Blackfoot, Clark Fork and Kootenai rivers. Protection of wilderness and special management areas in the bill will also help secure habitats for Canada lynx, a listed species, as well as wolverines and mountain goats—all species that need undisturbed habitats. Finally, it will provide vital habitat for elk security.

The protection of high quality habitat, along with the reconnection and restoration projects described below, will help secure populations of one ESA listed fish species, bull trout, and three additional fish species that are candidates for listing: westslope cutthroat trout, arctic grayling, and interior redband trout. All of these species now inhabit only a small portion of their historical ranges on the lands in the bill. The wilderness and special area designations serve as critical sources for fish that are necessary for re-populating restored habitats downstream.

2. Reconnect landscapes so that fish and wildlife can survive habitat disturbances

Restoration projects will be focused on areas of high road density. Obsolete road networks in Montana forests cause habitat fragmentation that prevents fish and wildlife from dispersing to intact habitats when faced with disturbances such as fire, drought or intense storms. The Forest Jobs and Recreation Act would address the problems caused by these road networks by (1) prohibiting the construction of new, permanent roads; and (2) requiring that road densities be reduced. (For example, in the Beaverhead-Deerlodge National Forest, the road standard is to leave post-project landscapes with a road density that averages no more than 1.5 linear road mile per square-mile.) The scientifically based standard recommended by the Montana Department of Fish, Wildlife and Parks for elk security is no more than 1.5 linear miles of road per square-mile, which is the minimum needed to provide enough security for elk so that Montana can maintain its annual 5-week general big game hunting season. The Beaverhead-Deerlodge National Forest and the Seeley Lake Ranger District include some of the most productive lands anywhere in Montana for large, trophy elk.

The road standards in S. 268 will also protect high quality habitat and improve wildlife security for a host of popular game and non-game species, including mule deer, black and grizzly bears and mountain goats. The road standards will also greatly benefit fish by reducing erosion-prone road surfaces and road crossing structures such as culverts that are currently harming habitat and impeding movement of fish into and out of important habitats. Agency surveys indicate, for example, that at least 240 road culverts on the Beaverhead-Deerlodge National Forest are currently complete or partial barriers to fish movement, and the frequency of road crossing barriers on the Seeley Lake and Three Rivers Districts are even more severe. The result is reduced habitat availability for species such as bull trout and cutthroat trout. The restoration projects called for in this legislation will improve habitat connectivity by removing roads and replacing or removing blocked culverts.

3. Engage communities in restoration

The Forest Jobs and Recreation Act directs the Forest Service to use stewardship contracting to meet vegetation management goals, which ensures that the value of trees removed is invested back onto the same landscape in habitat restoration, elimination of pollution sources, protection of key habitats from livestock, or suppression of weeds on winter ranges, as well as improvement of recreational features such as trails used by hunters, anglers and other recreationists.

By focusing stewardship projects on previously developed landscapes with high densities of roads, the Forest Jobs and Recreation Act will help address impairments on landscapes that are prone to unnatural rates of erosion, and related effects such as exotic weed invasion, after fires. When large fires sweep through developed landscapes such as those on the Beaverhead-Deerlodge National Forest or the Three Rivers Ranger District, they significantly increase the risk of erosion from road systems after snowmelt or severe rainstorms, and subsequent colonization by exotic weeds. Similarly, post-fire storms can block road culverts with debris and mud, causing these structures to fail and resulting in channel scouring and large amounts of sediment entering into trout streams. Fire is a natural part of these forest systems. In fact, on undeveloped landscapes it can play a beneficial role, one that fish and wildlife have adapted to for eons. On densely roaded forests, the effects of fire can cause intense erosion, water quality degradation, and extirpation of local populations of fish and wildlife—not to mention the risk to nearby human communities.

S. 233, THE NORTH FORK WATERSHED PROTECTION ACT

The North Fork Flathead watershed in Montana provides habitat for two native trout species that have been eliminated from much of their historic range: westslope

cutthroat trout and bull trout. TU strongly supports the North Fork Watershed Protection Act (S. 233), which would protect the watershed from negative impacts of mining on federal lands in the area.

CONCLUSION

The collaborative effort undertaken by local Montana groups is on the verge of overcoming years of controversy and delay to protect and restore Montana forests in ways that benefit fish and wildlife resources and local communities. There are challenges ahead, but S. 268 represents a new way of doing business for the Forest Service, and we urge the committee to pass it.

TU supports S. 268 and S. 233, and urges the Committee to approve the bills and to send them on to the floor for consideration by the Senate.

Sincerely,

STEVE MOYER,
Vice President for Government Affairs.

OFFICE OF THE MAYOR,
Missoula, MT, June 8, 2011.

Hon. MAX BAUCUS,
Senator, 219 Dirksen Senate Office Building, Washington, DC.

Hon. JON TESTER,
Senator, 724 Hart Senate Office Building, Washington, DC.

DEAR SENATOR BAUCUS AND SENATOR TESTER, Thank you for introducing S. 233, the North Fork Watershed Protection Act of 2011. The City of Missoula supports this important piece of legislation and its goal of protecting public lands and water quality by withdrawing future mining, oil and gas drilling, and geothermal development on U.S. Forest Service land. However, we urge you to expand the scope of the legislation beyond the North Fork to include all lands in the Flathead National Forest.

A significant portion of property owners in the Flathead region are residents of and voters in Missoula. These citizens own cabins, second homes, or land along the lakes and streams and in the forests and mountains of the Flathead watershed. Like the North Fork watershed, the public lands throughout the Flathead also contain oil and gas leases that have been suspended since the mid-1980s.

We believe that the irreplaceable lands within the Middle and South Forks of the Flathead River watersheds that are now unprotected from mineral development would also benefit from this legislation. The land and water resources in the Flathead National Forest provide vital economic benefits and ecological services for Montanans, including drinking water for several communities, as well as unparalleled public recreational opportunities beloved by Missoula residents and cherished by people nationwide.

Please consider protecting all of the headwaters of the Flathead River—the North, Middle, and South Fork drainages—by expanding the scope of S. 233. By passing a "complete package," this legislation will ensure that the headwaters of the Flathead River can sustain our communities for future generations of Montanans.

Thank you again for introducing S. 233. We fully support this legislation, and appreciate all of your work on behalf of Missoula's residents and natural resources.

Respectfully,

JOHN ENGEN,
Mayor.

POLSON CHAMBER OF COMMERCE,
June 4, 2011.

Hon. MAX BAUCUS,
511 Hart Senate Office Bldg., Washington, DC.

Hon. JON TESTER,
724 Hart Senate Office Building, Washington, DC.

DEAR SENATORS BAUCUS AND TESTER: Thank you for introducing Senate Bill 233, to withdraw Federal land and Interests in that land from loca-tion, entry, and patent under the mining laws and disposition under the mineral and geothermal leasing laws. The Polson Chamber of Commerce supports this legislation which withdraws future mining, oil and gas drilling, and geothermal development on U.S. Forest Service land in Montana's North Fork Flat-head River watershed.

We also support slightly expanding the boundary of S. 233 to incorporate the remainder of the Middle Fork of the Flathead River corridor to complete the protection of Glacier Park, the south flank of the Whi-tefish Range and Haskill Basin to protect recreation assets and Whitefish City's water supply, and the Co-ram Canyon area to protect the Flathead River and recreation. The attached map shows the proposed boundary.

Flathead Lake is an important asset to Polson, its economy and our businesses. S 233 will help protect Flathead Lake water quality and the economic health of our city from upstream threats of industrial ener-gy development. S. 233 is a critical step towards implementing the Montana—British Columbia agree-ment signed by Governor Schweitzer and Premier Campbell that bans mining and oil and gas extraction in the trans-boundary North Fork Flathead Valley.

The United States and Canada have a historic opportunity to protect the North Fork of the Flathead River, Glacier National Park, and Flathead Lake for future generations. S. 233 represents a crucial component of this legacy. Thank you for your efforts to protect Flathead waters.

Sincerely,

JACKIE CRIPE,
President.

BOARD OF LAKE COUNTY COMMISSIONERS,
Polson, MT, May 24, 2011.

Hon. MAX BAUCUS,
511 Hart Senate Office Bldg., Washington, DC.

Hon. JON TESTER,
724 Hart Senate Office Building, Washington, DC.

DEAR SENATORS BAUCUS AND TESTER: The Lake County Commission supports Senate Bill 233, the North Fork Watershed Protection Act of 2011, which withdraws future mining, oil and gas drilling, and geothermal development on U.S. Forest Service land in Montana's North Fork Flathead River watershed.

We also support slightly modifying the boundary of S. 233 to incorporate the remainder of the Middle Fork of the Flathead River corridor to complete the protection of Glacier Park, the south flank of the Whitefish Range and Haskill Basin to protect recreation assets and Whitefish City's water supply, and the Coram Canyon area to protect the Flathead River and recreation. The attached map shows the proposed boundary.

The Flathead Watershed is a unique and special place, and Flathead Lake is an important asset to Lake County, our communities, our economy and our local businesses, as well as to the greater Flathead region, the state of Montana and beyond. The quality of Flathead Lake is dependent on the quality of the waters that feed it. The headwaters of this unique resource are inappropriate for mining and oil and gas development, which could significantly degrade its quality. S. 233 will help protect Flathead Lake water quality and the economic health of our communities from these upstream threats. S. 233 is an important step towards implementing the Montana—British Columbia agreement signed by Governor Schweitzer and Premier Campbell that bans mining and oil and gas extraction in the transboundary North Fork Flathead Valley.

The United States and Canada have a historic opportunity to protect the North Fork of the Flathead River, Glacier National Park, and Flathead Lake for future generations. S.233 represents a crucial component of this legacy. Thank you for your work to protect Flathead waters.

Sincerely,

WILLIAM D. BARRON,
Chairman.

PADDY TRUSLER,
Member.

ANN BROWER,
Member.

May 24, 2011.

Hon. MAX BAUCUS,
511 Hart Senate Office Bldg., Washington, DC.

Hon. JON TESTER,
724 Hart Senate Office Building, Washington, DC.

DEAR SENATORS BAUCUS AND TESTER: On behalf of our millions of members who cherish America's national parks, public lands and wild and scenic rivers, we are writing to express our enthusiastic support for S. 233, the North Fork Watershed Protection Act of 2011. Your bill helps protect the North Fork of the Flathead River Valley by withdrawing U.S. Forest Service land from future mining and energy development.

As a UNESCO World Heritage site and the world's first International Peace Park, Waterton-Glacier is regarded around the world as the premier example for international collaboration in protecting outstanding transboundary natural resources. With its headwaters in British Columbia and its downstream reaches in Montana, the Flathead River Valley encompasses much of Glacier National Park and forms the core of the Crown of the Continent Ecosystem. This ecosystem supports an unmatched diversity of wildlife including the greatest density of grizzly bears in interior North America and some of the continent's healthiest runs of native bull trout and cutthroat trout.

Since your legislation would keep the U.S. portion of the Flathead Valley pristine and preserve the region's vibrant tourism industry, it enjoys strong support from local businesses and chambers of commerce, Montanans, and the broader American public. It is also supported by ConocoPhilips and other companies who have already voluntarily relinquished more than 233,000 acres of oil and gas leases.

Enactment of your legislation would complement the law passed recently in British Columbia (B.C.) prohibiting mining in the Canadian portion of the Flathead Valley as well as the memorandum of understanding signed by Montana and B.C. agreeing to "remove mining, oil and gas, and coal development as permissible land uses in the Flathead River Basin." All of these successes are due in large part to your shared leadership and passion for preserving one of America's last great wild places.

Our organizations look forward to working with you to pass this important legislation. You have our commitment to assist you however we can in forever protecting this incredible place.

Sincerely,

Thomas C. Kiernan, *President*, National Parks Conservation Association; Margie Alt, *Executive Director*, Environment America; Karen Berky, *Western Division Director, North America*, The Nature Conservancy; William Meadows, *President*, The Wilderness Society; Trip Van Noppen, *President*, Earthjustice; Rebecca Wodder, *President*, American Rivers; Gene Karpinski, *President*, League of Conservation Voters; Will Rogers, *President*, The Trust for Public Land; David W. Hoskins, *Executive Director*, Izaak Walton League of America.

May 24, 2011.

Hon. MAX BAUCUS,
511 Hart Senate Office Bldg., Washington, DC.

Hon. JON TESTER,
724 Hart Senate Office Building, Washington, DC.

DEAR SENATORS BAUCUS & TESTER, We the undersigned organizations represent hundreds of thousands of hunters and anglers from across the country and right here in Montana are writing to express our full and strong support for S. 233 the North Fork Watershed Protection Act of 2011, to withdraw US Forest Service land in the North Fork Watershed from future oil and gas leasing activities. Our memberships represent a diverse group of the American public for who hunting, fishing and outdoor recreation is a way of life.

The North Fork of the Flathead is one of Montana's most special places to hunt and fish. Public lands in this valley provide unique and unparalleled opportunities to access our nation's rich natural heritage. The watershed provides critical habitat for bull and cutthroat trout and since the days of Theodore Roosevelt, hunters have been coming to the valley to pursue world class mule deer, elk and moose opportunities. This valley truly is one of the wildest valleys in the continental United States,

and we believe the next generation should have the same opportunity we have to experience this special place.

The North Fork Watershed Protection Act is an important step in ensuring that traditional land-uses, such as timber and outdoor recreation are protected in this valley. Oil, gas and hard rock mineral extraction in the North Fork would forever change this special place and cause serious harm to water and air quality, native trout, and big game populations. That means big business in Montana, where hunters and anglers contribute $1 billion annually to the state economy.

In addition to impacting sportsmen and women, oil and gas extraction would have negative impacts on the regional economy—as millions of tourists spend over $150 million dollars each year to experience the clean water and wildlife of Glacier National Park.

We understand our need for fossil fuels and hard rock minerals, and we believe that part of responsible development is recognizing that some places are too special to be industrialized. The North Fork of the Flathead is one of these places.

A final reason we support S. 233 is to be a good neighbor. British Columbia has now banned mining in the Canadian Flathead and asked us to do the same. For decades, proposals for massive coal strip-mines in the Canadian headwaters of the North Fork have threatened the water quality of the Flathead River, Flathead Lake, and Glacier National Park.

Today there is a unique and special opportunity to protect the North Fork of the Flathead and Glacier National Park forever, preserving our sporting traditions for those unborn generations. S. 233 is a necessary and essential piece of legislation to complete this legacy. Our organizations look forward to working with you to pass this important legislation.

Sincerely,

Backcountry Hunters and Anglers, Big Blackfoot Chapter Trout Unlimited, Bitter Root Chapter of Trout Unlimited, Flathead Valley Chapter Trout Unlimited, George Grant Chapter Trout Unlimited, Hellgate Hunters and Anglers, Izaak Walton League of America, Joe Brooks Chapter Trout Unlimited, Kootenai Valley Trout Club, Lewis and Clark Chapter Trout Unlimited, Madison-Gallatin Chapter Trout Unlimited, Magic City Fly Fishers, Medicine River Canoe Club, Montana Backcountry Hunters and Anglers, Montana River Action Network, Montana Trout Unlimited, Montana Wildlife Federation, National Wildlife Federation, Pat Barnes Missouri River Chapter Trout Unlimited, Snowy Mountain Chapter Trout Unlimited, Theodore Roosevelt Conservation Partnership, Trout Unlimited, West Slope Chapter Trout Unlimited, Wild Sheep Foundation.

CONOCOPHILLIPS COMPANY,
FEDERAL & STATE GOVERNMENT AFFAIRS,
Washington, DC, May 20, 2011.

Hon. MAX BAUCUS,
U.S. Senate, Washington, DC.

DEAR SENATOR BAUCUS: I am writing to express ConocoPhillips' support for S. 233, the North Fork Watershed Protection Act, which would withdraw from development an area of Montana that has important economic and recreational qualities and is a gateway to Glacier National Park.

ConocoPhillips was pleased last year to voluntarily give up its interest in 108 federal oil and natural gas leases, covering 169,000 acres in the watershed. ConocoPhillips is confident that it could have developed those leases in a safe and environmentally responsible manner, but relinquished the acreage after considering the unique characteristics of the area and your request for the withdrawal.

We hope that the Senate will act expeditiously in its consideration of S. 233.

Sincerely,

JIM E. FORD,
Vice President.

NORTHWEST HEALTHCARE,
Kalispell, MT, June 1 , 2011.

Hon. MAX BAUCUS,
Senator, 511 Hart Senate Office Bldg., Washington, DC.

DEAR SENATOR BAUCUS: Thank you for introducing Senate Bill 233, the North Fork Watershed Protection Act, a bill that protects Glacier National Park as well as the ecological and economic future of our Flathead Valley communities.

Conservation affects the attractiveness of the area and the kinds of people we can recruit to the Flathead Valley. V/e have been able to attract and retain an outstanding medical staff because this is such a nice place to live. Those qualities that make the region a nice place to live—clean water, air quality, Glacier National Park, Flathead Lake—are assets we need to conserve.

Glacier is a big part of why I choose to live here, and why many of our high-quality professional medical staff chooses to live here. The park is a huge part of our valley's quality of life, and that quality of life is why our economy is growing.

Our challenge is to make sure we protect these qualities for the long term, and Senate Bill 233 meets that challenge by safeguarding Glacier Park and the Flathead's waterways for future generations.

Sincerely,

VELINDA STEVENS,
President and CEO.

STATEMENT OF OLIVER MEISTER, THE NORTH FORK HOSTEL & INN AND THE SQUARE PEG RANCH

As individual business leaders from Montana's Flathead Valley, we understand that the traditional values of our community, coupled with our spectacular natural setting, help attract and retain our region's highly qualified workforce and the kinds of investments that keep our community strong. We recognize the importance of our scenic landscapes and clean water to future economic vitality.

Glacier National Park, the scenic Flathead River system, Flathead Lake and the slopes of Whitefish Mountain Resort are among the many assets that make western Montana a wonderful place to live, work and invest. They are a powerful economic engine driving local jobs and prosperity. It's simply good business to take care of our greatest assets, and to pass this inheritance on to the next generation of civic and business leaders.

As a small business we depend on the protection of this watershed for our livelihood, people from all over the US and many international visitors come here just because of the pristine quality and unspoiled grandeur of this area lost in so many other places. I cannot emphasize more the importance of this place!

In the words of Kalispell Chamber of Commerce president Joe Unterreiner: "The Chamber wishes to ensure that Glacier Park, the North Fork River, and Flathead Lake remain as economically productive as they are today."

We join the Chamber, as well as local municipalities, in support of The North Fork Watershed Protection Act (Senate Bill 233), which would limit mining and oil and gas drilling on lands immediately adjacent to Glacier National Park, including two Wild and Scenic River corridors, the destination ski resort and drinking water supply of Whitefish. Major energy companies recognize the common sense behind this bill and have already voluntarily relinquished existing leases there; this bill ensures that those voluntary retirements are honored into the future. This bill maintains our Valley's traditional and long-term economic engines by:

- Ensuring the Flathead's clear water by keeping headwaters pristine. (The value of Flathead Lake to the broader regional economy is estimated at up to $10 billion dollars.)
- Safeguarding the integrity of Glacier National Park. Glacier Park draws more than 2 million visitors to the Flathead Valley annually, where they spend more than $150 million each year, even amid a global recession.
- Protecting Whitefish Mountain Resort and Haskill Basin, the water supply for the city of Whitefish

This bill also preserves our heritage and way of life by:

- Defending traditional fishing, hunting, wildlife-viewing and camping. These activities bring in more than $1 billion to Montana annually, and contribute to Montana's rural way of life. SB 233 is endorsed by several hunting and fishing groups, including Backcountry Hunters and Anglers, Billings Rod and Gun Club, Magic City Fly Casters and Theodore Roosevelt Conservation Partnership.

• Respecting property rights. SB 233 applies only to federal lands.

Importantly, this bill costs taxpayers nothing, and is supported by several major energy companies, which already have voluntarily relinquished their development leases in the area.

Those include ConocoPhillips, Chevron, BP, XTO Energy (subsidiary of ExxonMobil Corp.), Anadarko, Allen and Kirmse, Ltd., Pioneer Natural Resources, USA, Clayton Williams Energy, Inc., and Forest Oil Corp.

While there are places in Montana where mining and energy development are highly appropriate, there are also places where other values should prevail. Safeguarding the Flathead's traditional economic engines will require conservative stewardship of our shared natural inheritance, and we thank you for assistance in protecting our community assets and future well being.

GLACIER GUIDES, INC.,
MONTANA RAFT CO.,
West Glacier, MT, May 18, 2011.

Hon. MAX BAUCUS,
Senator, 511 Hart Senate Office Bldg., Washington, DC.

Hon. JON TESTER,
Senator, 724 Hart Senate Office Building, Washington, DC.

Re: S233

DEAR SENATORS MAX BAUCUS & JON TESTER, First things first: Thank you. Congratulations on the recent announcement of a longterm agreement between the State of Montana and Province of British Columbia to protect the Transboundary Flathead River Valley from all types of mining and oil and gas extraction. It took decades, but we got here together.

Our business relies on the pristine natural values of the Wild & Scenic North and Middle Forks of the Flathead River to provide our customers with unique recreational experience that they are seeking. We serve thousands of individuals each year and employ 80 people during peak operating season.

I thank you for introducing S233, and are highly encouraged that this will implement an oil and gas lease and mining withdrawal for Flathead National Forest that includes not only the North Fork but the non-wilderness and non-national park public lands surrounding the Wild & Scenic Middle Fork of the Flathead River, as well. We are requesting for several specific reasons:

1) Protect the business-operating model of the entire business community of Glacier National Park gateway communities in the Hwy 2 corridor. This area is reliant on tourism dollars and already faces existing congestion challenges. Oil and gas exploration activities would have adverse impacts.

2) Protect the existing water quality and fishery values of the Wild & Scenic Middle Fork of the Flathead. Additionally, this area would also include the Nyack Flats Region. A unique micro-ecosystem in the Flathead Drainage. It is also logical to bring the area under lease withdrawal in this region to connect with the upper reaches of the Middle Fork, which are already withdrawn by the good Rocky Mountain Front legislation.

3) Prevent future land-use conflicts due to traditional surface usage that is incompatible with sub-surface energy extraction. For example, one area that is currently leased is the USFS parcel directly adjacent to West Glacier that contains the West Glacier Bridge river access point, one of the most popular takeouts on the entire river corridor. Another example is the existing leases that underlay the Coram Experimental Forest, an important forestry research facility.

Protecting these corridors is the right action for Glacier National Park and the hundreds of small businesses that currently operate in the Columbia Falls, Hungry Horse, Coram, Apgar, and West Glacier area.

Once again, thank you for a truly historic accomplishment.

Sincerely,

CRIS COUGHLIN,
Owner.

FIELDS CONSTRUCTION SERVICES, INC.,
Whitefish, MT, May 24, 2011.

Hon. SENATOR BAUCUS,
511 Hart Senate Office Bldg, Washington, DC.

DEAR SENATOR BAUCUS: Fields Construction Services, Inc. is a residential and commercial building contractor located in Whitefish, Montana. As the owner, I write you today in full support of SB 233, the "North Fork Watershed Protection Act of 2011".

SB 233 accomplishes several important outcomes important to me. It:

- Balances the commitment made by British Columbia, Canada, to ban mining and energy extraction industry from the North Fork Flathead watershed;
- Protects the Waterton-Glacier International Peace Park and World Heritage Site from the potentially devastating consequences from such industrial activities;
- Ensures that the leases given up voluntarily by oil and gas companies will not be re-lent in the future;
- Ensures that the tourism and recreation economy of this part of Montana is not compromised by inappropriate mineral and energy development in a place that ALL Montanans regard as very special place; and
- Protects our clean water at the source and our wildlife populations that crisscross the international border.

I very much appreciate that SB 233 costs the US taxpayer nothing, while accomplishing so much in just 190 words. This is federal legislation at its very best.

Fields Construction Services wishes you success in your efforts to move SB 233 through the committee process and on to affirmative action by Congress. We appreciate you vigilant defense of the North Fork Flathead River. Please do not hesitate to call on me personally if I may be of any direct assistance with this or future measures needed to protect the North Fork and Glacier National Park.

Best Regards,

EDWIN FIELDS,
Owner.

GLACIER PARK, INC.,
East Glacier Park, MT, June 8, 2011.

Hon. SENATOR BAUCUS,
via email: spencer—gray@baucus.senate.gov.

Hon. SENATOR JOHN TESTER,
via email: stephenne—harding@tester.senate.gov

The Great State of Montana

DEAR SENATOR BAUCUS AND SENATOR TESTER, It is with great concern I write this letter to you both encouraging the passing of this vital bill, SB233. Glacier National Park was founded upon the love of the incredible beauty of this land, the pristine lakes and waterways, the wildlife that has survived for centuries and the willingness of a people devoted to protecting all it has to offer. We need to preserve this land as it is now and has been for years for all of our generation and those to come.

As individual business leaders from Montana's Flathead Valley, we understand that the traditional values of our community, coupled with our spectacular natural setting, help attract and retain our region's highly qualified workforce and the kinds of investments that keep our community strong. We recognize the importance of our scenic landscapes and clean water to future economic vitality.

As the operator of Many Glacier Hotel, Lake McDonald Lodge, the Village Inn, Rising Sun Motor Inn, Swiftcurrent Motor Inn and the Two Medicine Campstore inside Glacier National Park, and Owner/Operator of Glacier Park Lodge in East Glacier Park, Grouse Mountain Lodge in Whitefish and the Prince of Wales Hotel in Waterton National Park, we have a vested interest in insuring that Glacier National Park, the scenic Flathead River system, Flathead Lake and the slopes of Whitefish Mountain Resort remain a wonderful place to live, work and invest. They are a powerful economic engine driving local jobs and prosperity. It's simply good business to take care of our greatest assets, and to pass this inheritance on to the next generation of civic and business leaders.

We join the Chamber, as well as local municipalities, in support of The North Fork Watershed Protection Act (Senate Bill 233), which would limit mining and oil and gas drilling on lands immediately adjacent to Glacier National Park, including two Wild and Scenic River corridors, the destination ski resort and drinking water

supply of Whitefish. Major energy companies recognize the common sense behind this bill and have already voluntarily relinquished existing leases there; this bill ensures that those voluntary retirements are honored into the future.

This bill maintains our Valley's traditional and long-term economic engines by:

Ensuring the Flathead's clear water by keeping headwaters pristine. (The value of Flathead Lake to the broader regional economy is estimated at up to $10 billion dollars.)

Safeguarding the integrity of Glacier National Park. Glacier Park draws more than 2 million visitors to the Flathead Valley annually, where they spend more than $150 million each year, even amid a global recession.

Protecting Whitefish Mountain Resort and Haskill Basin, the water supply for the city of Whitefish.

This bill also preserves our heritage and way of life by:

Defending traditional fishing, hunting, wildlife-viewing and camping. These activities bring in more than $1 billion to Montana annually, and contribute to Montana's rural way of life. SB 233 is endorsed by several hunting and fishing groups, including Backcountry Hunters and Anglers, Billings Rod and Gun Club, Magic City Fly Casters and Theodore Roosevelt Conservation Partnership.

Respecting property rights. SB 233 applies only to federal lands.

Importantly, this bill costs taxpayers nothing, and is supported by several major energy companies, which already have voluntarily relinquished their development leases in the area. Those include ConocoPhillips, Chevron, BP, XTO Energy (subsidiary of ExxonMobil Corp.), Anadarko, Allen and Kirmse, Ltd., Pioneer Natural Resources, USA, Clayton Williams Energy, Inc., and Forest Oil Corp.

We urge you to keep the area alive for years while protecting one of Montana's finest natural resources. The strength of this state and economic foundation depend on its preservation.

Sincerely,

CYNTHIA OGNJANON,
President and General Manager.

THE NORTH FORK COMPACT,
May 23, 2011.

Hon. SENATOR JON TESTER,

DEAR SENATOR TESTER, On behalf of the members of the North Fork Compact, a civic organization composed of landowners in the North Fork of the Flathead Valley, Montana, I write to express our enthusiastic support for S233, the North Fork Watershed Protection Act of 2011 which would eliminate the possibility of future mining, oil and gas exploration and geothermal development on US Forest Service Land in Montana's North Fork Flathead River watershed.

Our organization has worked for nearly 30 years to protect the uniquely pristine ecology of the North Fork River which is a Congressionally designated Wild & Scenic River Corridor.

We strongly commend your efforts to protect the North Fork River and its surrounding habitat and appreciate your cooperation with the Governor's office to quickly implement the provisions called for in the British Columbia/Montana Memorandum of Understanding. We view S233 as a vital step in the protection of Glacier National Park, the Wild & Scenic North Fork of the Flathead River and surrounding ecosystem. This largely empty wild area is one of the few remaining unspoiled ecosystems in the lower 48 states, home to the greatest diversity of carnivores in the country.

Please let me know if there is anything the North Fork Compact can do to help you in the passage of S233.

Sincerely,

DONALD SULLIVAN,
Chairman.

FLATHEAD LAKERS,
Polson, MT, May 24, 2011.

Hon. MAX BAUCUS,
U.S. Senate, 511 Senate Hart Office Building, Washington, DC.

DEAR MAX: Thank you for your leadership and perseverance in protecting the Flathead Watershed from upstream coal mines. Your work on this threat to clean water in the North Fork Flathead River on downstream to Flathead Lake has been instrumental in protecting Flathead waters for three decades and led to the landmark agreement between Montana and British Columbia that will greatly benefit priceless waters, wildlife and scenic beauty on both sides of the international boundary for many generations to come.

The Flathead Lakers strongly support your bill, S 233, the North Fork Watershed Protection Act of 2011, to withdraw public lands from leasing for mining and energy extraction in the North Fork Flathead Watershed, the area adjacent to Glacier National Park along the Middle Fork Flathead River, and areas in the Whitefish River headwaters, which drain into the mainstem Flathead River and Flathead Lake, one of the cleanest large lakes in the world. The Flathead Lakers is a nonprofit organization dedicated to protecting clean water, healthy ecosystems and lasting quality of life in the Flathead Watershed. Our organization was founded in 1958 and currently has over 1,500 members.

Passage of this bill will not only protect Flathead waters and natural heritage for the future, but will also demonstrate Montana and the United States' commitment to implementing the Montana-British Columbia agreement and protecting Flathead waters. We applaud your dedication to transboundary cooperative natural resource management in the Flathead and believe it will be rewarded with long-term dividends.

Sincerely,

ROBIN STEINKRAUS,
Executive Director.

HEADWATERS MONTANA,
Whitefish, MT, May 17, 2011.

Hon. MAX BAUCUS,
Senator, 511 Hart Senate Office Bldg, Washington, DC.

Hon. JON TESTER,
Senator, 724 Hart Senate Office Building, Washington, DC.

DEAR SENATORS BAUCUS AND TESTER: Thank you for re-introducing the "North Fork Watershed Protection Act" this year to help meet the challenge of balancing transboundary management of the North Fork Flathead River with our British Columbian neighbors. As you know too well, getting to this point has taken over 36 years of effort on the part of many citizens from both the U.S. and Canada. We cannot overemphasize how important all western Montanans feel this legislation is to protecting our clean water and Flathead Lake.

Without SB 233's passage, the delicate pact with B.C. that would eliminate the future threat of mining and energy development in this pristine, international watershed, would be seriously jeopardized. Waterton—Glacier International Peace Park is a World Heritage Site and Biosphere Reserve. The IUCN/WHO determined in 2009 that industrial mining and energy proposals in the B.C. portion of the watershed could lead to the site being listed as "in danger". The premier of B.C. has committed to legislation that would ban mining and energy development in their part of the watershed; SB 233 accomplishes the same, reciprocal commitment.

Headwaters Montana has been in on the effort to protect the North Fork Flathead. In fact, we and NPCA suggested to Senator Baucus' office the idea of SB 233. We've talked to every conceivable interest group in the Flathead Valley to garner support. Universal support exists for this legislation... among Republicans, Democrats, liberal, conservatives, motorized and quiet recreationists. People understand that their clean water and the future integrity of Glacier National Park ride on this legislation.

We look forward to the Senate Public Lands and Forests Committee's favorable vote on SB 233 so that Montanans and U.S. citizens can know that Glacier Park will be protected long into the future.

Thank you for your sponsorship of this important legislation.

Sincerely,

DAVE HADDEN,
Director.

CLARK FORK COALITION,
Missoula, MT, May 17, 2011.

Hon. MAX BAUCUS,
Senator, 219 Dirksen Senate Office Building, Washington, DC.
Hon. JON TESTER,
Senator, 724 Hart Senate Office Building, Washington, DC.

DEAR SENATOR BAUCUS AND SENATOR TESTER, Thank you for introducing S. 233, the North Fork Watershed Protection Act of 2011. The Clark Fork Coalition fully supports this important piece of legislation and its goal of protecting public lands, rivers and streams in the North Fork Flathead watershed by withdrawing future mining, oil and gas drilling, and geothermal development on U.S. Forest Service land.

The Clark Fork Coalition, founded in 1985, is a non-profit representing 2,700 members united behind the cause to create healthy rivers and vibrant communities. The Flathead River is the largest tributary to the 22,000 square-mile Clark Fork River basin. The land and water resources in the Flathead provide vital economic benefits and ecological services for Montana as well as the Northern Rockies and Cascadia ecosystems.

- Its headwaters flow through some of the richest and most diverse habitat in the lower 48, and supply clean, cold water to Flathead Lake, one of the most pristine lakes in the world.
- The groundwater and streams provide drinking water for several communities in western Montana.
- The trout streams, magnificent forests and towering peaks in the Flathead watershed offer unparalleled public recreational opportunities beloved by the Coalition's 2,700 members and cherished by people nationwide.

The Clark Fork Coalition believes that S. 233 is an important piece of legislation that will ensure the headwaters of the Flathead River can sustain our communities for future generations of Montanans. It also offers immense conservation value nationwide.

Thank you again for introducing S. 233. We appreciate all of your work on behalf of Missoula's residents and natural resources.

Respectfully,

KAREN KNUDSEN,
Executive Director.

WHITEFISH LAKE INSTITUTE,
Whitefish, MT, May 19, 2011.

Hon. MAX BAUCUS,
Senator, 511 Hart Senate Office Building, Washington, DC.
Hon. JON TESTER,
Senator, 724 Hart Senate Office Building, Washington, DC.

RE: Support for Senate Bill 233

DEAR SENATORS BAUCUS AND TESTER: The Whitefish Lake Institute enthusiastically supports Senate Bill 233 to provide resource and water quality protection in the "Crown of the Continent."

The Whitefish Lake Institute is a science and education based non-profit corporation designed to protect and improve the Whitefish, Montana area lake resources.

Thank you for including the Haskill Basin Watershed in the proposed protection area. Haskill Basin supplies part of the drinking water for the City of Whitefish. The Whitefish Lake Institute recommends that the Whitefish Lake Watershed be included in this bill, considering Whitefish Lake also supplies drinking water to the City of Whitefish and serves as a very popular recreational waterbody.

Thank you for your time and consideration in processing this request.

Sincerely,

MIKE KOOPAL,
Executive Director.

THE CONFEDERATED SALISH AND KOOTENAI
TRIBES OF THE FLATHEAD NATION,
TRIBAL COUNCIL,
Pablo, MT, May 25, 2011.

Hon. MAX BAUCUS,
U.S. Senate, 511 Hart Senate Office Bldg, Washington, DC.

RE: Senate Bill 233, the North Fork Watershed Protection Act

DEAR SENATOR BAUCUS: On behalf of the Confederated Salish and Kootenai Tribes (CSKT), I am writing to offer our wholehearted support for Senate Bill 233, the North Fork Watershed Protection Act.

For thousands of years, the Flathead drainage system—from the headwaters in British Columbia through Flathead Lake and down to the confluence with the Clark Fork River—has been an artery running through the heart of the tribes' territories. Our elders have documented dozens of traditional place names along these vital waterways, where the tribes have lived for countless generations, drinking the pure waters, gathering plants for food and medicinal use, fishing, hunting, canoeing, bathing, swimming—and praying. The anthropologist Carling Malouf wrote that "the density of occupation sites around Flathead Lake, and along the Flathead River...indicates that this was, perhaps, the most important center of ancient life in Montana west of the Continental Divide."

From time immemorial, in short, these waters have sustained our people, and we in turn have taken care of them. Among the many actions taken by the CSKT in recent years to protect these resources was our adoption, in 1993, of the Lower Flathead River Management Plan, which states that the river's "natural and cultural values shall be preserved for present and future generations of the Tribes." And each year, we host hundreds of area school children at our annual, three-day-long "River Honoring" event, the largest environmental education effort in Montana.

For over thirty years, however, the CSKT have been deeply concerned about the threat to these irreplaceable cultural and natural resources from the industrial and energy development projects proposed for the North Fork headwaters. We were therefore relieved and hopeful when we learned of the agreement between Montana and British Columbia to ban these activities on both sides of the border. The state and the province, as well as both nations, have recognized that the Flathead is an environmental asset of the very highest order, and we all have an obligation to see that it stays that way.

Yet the promising recent steps to set aside lands on the Canadian side of the river still compel the United States to take prompt, commensurate action on our side. Senate Bill 233 meets this need by protecting more than 400,000 acres of U.S. Forest Service lands along the North Fork. With passage of your bill, this area will be placed off limits to hardrock mining, oil and gas development, and geothermal leasing. S. 233 thus helps ensure the future integrity of the natural values not only of the North Fork of the Flathead River, but also the waters downstream in Flathead Lake and the lower Flathead River. Those natural values, in turn, are also the basis of the region's economy. S. 233 not only does the right thing for this unique environmental resource; it also makes good economic sense.

All the land encompassed within S. 233 is part of CSKT aboriginal territories, ownership of which we ceded to the United States in the Hell Gate Treaty of 1855. Under the terms of this treaty, however, the Tribes reserved the right to continue using open and unclaimed ceded lands for traditional uses. Protecting this land while also providing for continued public use under Forest Service management will be a benefit to all Americans.

Thank you for bringing forward this important, timely, and much needed legislation. We urge all members of the Senate to support its passage.

Respectfully,

ERNEST T. MORAN,
Chairman.

STATEMENT OF THE NATIONAL PARKS CONSERVATION ASSOCIATION, ON S. 233

Dear Chairman Bingaman, Ranking Member Murkowski, and Members of the Committee:

Thank you for the opportunity to submit written testimony regarding S. 233, The North Fork Watershed Protection Act—an important piece of legislation that will help preserve the international legacy of Waterton-Glacier International Peace Park. We thank Senators Baucus and Tester for introducing this legislation and take particular note of Senator Baucus' 30-year commitment to protect Glacier National

Park and the North Fork Flathead River Valley from industrial mining, in both the Canadian headwaters and the Montana portions of the watershed.

Since 1919, the National Parks Conservation Association (NPCA) has been the leading voice of the American people on behalf of our national parks. Our mission is to protect and enhance America's National Park System for current and future generations. On behalf of our more than 340,000 members, we urge the Committee's support and passage of S. 233.

Our national parks are home to some of the nation's most iconic and sacred landscapes, monuments, and historic sites. They are among the most recognizable places in the world. One year ago, on May 11th, our nation commemorated the 100th Anniversary of Glacier National Park. The passage of S. 233 represents a historic opportunity for today's Congress to build upon this historic legacy in its own right.

Protecting more than one million acres of public lands in northwest Montana, Glacier National Park is a crown jewel of the national park system. Established a century ago "for the benefit and enjoyment of the people of the United States," Glacier's sculpted peaks, mountain valleys, and clean waters are enjoyed by more than two million people each year, and provide crucial habitat for threatened species including the grizzly bear, bull trout and Canada lynx.

The natural and ecological benefits provided by Glacier National Park extend beyond the park's boundaries. From the snow-fed streams and mountain rivers of Glacier flow the headwaters of North America, the source of rivers that run through 16 states and four Canadian provinces before flowing finally into the Pacific Ocean, Gulf of Mexico and Hudson Bay. Glacier's snow-covered peaks serve as a natural reservoir and essential source of clean water—which is one of our continent's most important and essential resources.

The park also plays a significant role in the regional economy of many Montana communities. More than two million travelers visit Glacier each year, providing a direct economic impact exceeding $150 million dollars. The Chamber of Commerce in Kalispell, Montana, estimates that 20 percent of the Flathead Valley's economic activity is the direct result of Glacier National Park. The economic value of protecting Glacier's unique and pristine waters and surrounding public lands through this legislation cannot be overstated.

S. 233 WILL PROTECT THE WORLD'S FIRST INTERNATIONAL PEACE PARK, AND STRENGTHEN US RELATIONS WITH CANADA

In 1932, acts of the US Congress and Canadian Parliament designated Glacier National Park and Waterton Lakes National Park in Alberta, Canada, as the Waterton-Glacier International Peace Park—the world's first international peace park. This relationship of transboundary peace and goodwill has served as a source of inspiration for nations around the world, and today there are more than 100 international peace parks on five continents.

The exceptional natural values of Waterton-Glacier International Peace Park are of global significance. National Geographic magazine has deemed it "one of the most diverse and ecologically intact natural ecosystems in the temperate zones of the world." In 1995, Waterton-Glacier was added to the list of the United Nations Educational, Scientific and Cultural Organization's (UNESCO) World Heritage sites, in recognition of the peace park's unique geology, abundant and diverse plant and animal communities, and glacial landscape. In 2010, the IUCN/World Heritage Center delivered a report to the governments of Canada and the United States supporting a prohibition on mining in the Flathead Valley, and recommending that a conservation and wildlife management plan be developed for the peace park.

Also in 2010, Montana Governor Brian Schweitzer and British Columbia Premier Gordon Campbell signed a Memorandum of Understanding (MOU) and Cooperation on environmental protection, climate action, and energy. The two-page document identifies broad areas for cooperation and partnership; and, most importantly, the MOU also contains some very specific language regarding the North Fork Flathead River Valley: "BC and Montana commit to remove mining, oil and gas, and coal development as permissible land uses in the [North Fork]." The MOU still must be implemented by passage of applicable legislation in both countries. In British Columbia, the Premier amended three different laws to ban mining in the Canadian Flathead, the day after the signing of the MOU. For the US, S. 233 is a crucial step forward in meeting the State of Montana's responsibilities under the MOU, and enjoys strong support from many business and community groups, including the Kalispell Area Chamber of Commerce. Other supporters include energy majors such as Chevron and ConocoPhillips, which already have relinquished lease options in the region at no cost to taxpayers.

TO BETTER SAFEGUARD GLACIER NATIONAL PARK AND THE CROWN OF THE CONTINENT ECOSYSTEM, THE WITHDRAWAL BOUNDARY HAS BEEN DRAWN TO INCLUDE LANDS ADJACENT TO GLACIER NATIONAL PARK

NPCA strongly supports S.233, not only for its protections of the North Fork Flathead River Valley but also for its protections of public lands that provide a drinking water supply for the City of Whitefish, as well as public lands located in the Congressionally designated Wild & Scenic River corridor of the Middle Fork Flathead River, which forms the southwestern boundary of Glacier National Park. These lands are important to the area's economy, recreation and municipal development, as reflected by S. 233 support provided by Whitefish's Mayor, the owners of Whitefish Mountain Resort, and local companies doing business on the Middle Fork Flathead River. From its British Columbia headwaters downstream to Flathead Lake, the Flathead River system forms the core of the Crown of the Continent Ecosystem, supporting an unmatched diversity of wildlife and human communities.

With S. 233 you have a tremendous opportunity to make a lasting contribution to the international legacy of Glacier National Park. Americans love our national parks, and this legislation affords the opportunity for our generation to bequeath to our children and grandchildren the opportunity to experience a wild and scenic Flathead River—just as we have.

This concludes NPCA's written testimony. Please feel to contact us with any further questions you or your staff may have. Thank you.

AMERICAN RIVERS,
NORTHERN ROCKIES,
Bozeman, MT, June 7, 2011.

Hon. JEFF BINGAMAN,
Chairman, Senate Energy and Natural Resources Committee, 304 Dirksen Senate Office Building, Washington, DC.

Hon. LISA MURKOWSKI,
Ranking Member, Senate Energy and Natural Resources Committee, 304 Dirksen Senate Office Building, Washington, DC.

Re: Testimony in Support of S. 233

DEAR CHAIRMAN BINGAMAN AND RANKING MEMBER MURKOWSKI: On behalf of American Rivers, I am pleased to present our written testimony in support of S. 233, the North Fork Watershed Protection Act of 2011 introduced by Montana Senators Max Baucus and Jon Tester. After carefully reviewing the bill, and having personally spent a considerable amount of time visiting the landscape it would affect, American Rivers believes S. 233 offers substantial conservation benefits for one of North America's most spectacular watersheds, the local communities that are sustained by it, and the millions of tourists from across the nation and around the world who visit Glacier National Park and the surrounding area. This vital legislation is strongly supported by a broad cross-section of Montanans including local residents and elected leaders, small businesses, chambers of commerce, hunters and anglers, conservation organizations and energy companies. To our knowledge, no organized group in Montana has spoken out in opposition to this extremely popular bill.

ABOUT AMERICAN RIVERS

American Rivers is the nation's leading river conservation organization, with more than 65,000 members and supporters from all 50 states—including hundreds of Montanans—who share a commitment to protecting and restoring our nation's rivers for the benefit of people, wildlife and nature. For decades we have worked with local partners in Montana to permanently protect the North Fork of the Flathead River from various forms of mining and oil and gas drilling. In 2009, American Rivers included the North Fork on its annual list of Most Endangered Rivers™ due to threats from industrial-scale coal mining, gold mining, and oil and gas drilling in its headwaters along the Montana-British Columbia border.

GLOBALLY SIGNIFICANT FISH & WILDLIFE RESOURCES

Due to its remoteness, lack of development, and pristine water quality, the North Fork serves as a globally significant stronghold for native fish, wildlife and plant species. Among the native fish species found in the North Fork are bull trout, a federally threatened species, and westslope cutthroat trout, which have been petitioned for listing under the Endangered Species Act and are considered a Species of Special Concern by the U.S. Forest Service and state of Montana. Both fish species migrate

from Flathead Lake in Montana up to 150 miles upstream to the headwaters of the North Fork in British Columbia where they spawn in some of the cleanest, coldest water in North America. The migratory bull trout of the North Fork can reach over 15 pounds and three feet in length.

Thanks to its status as the last remaining undeveloped low-elevation valley in the Northern Rockies and its unique location at the crossroads of five major ecosystem types, the North Fork supports an unparalleled diversity of wildlife species including grizzly and black bears, gray wolves, wolverines, Canada lynx, elk, mule deer, whitetail deer, moose, bighorn sheep and mountain goats. Among its superlatives, the North Fork is believed to contain the greatest density of carnivores in North America and the greatest diversity of plant species in Canada including over 1,000 species of wildflowers.

WILD & SCENIC RIVER STATUS

The North Fork, along with the Middle Fork and South Fork of the Flathead, were added to the National Wild and Scenic Rivers System in 1976 in order to protect their "outstandingly remarkable values," which include recreation, scenery, historic sites, and unique fisheries and wildlife. In passing the Wild and Scenic Rivers Act, Congress stated:

"It is hereby declared to be the policy of the United States that certain selected rivers of the Nation which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural or other similar values, shall be preserved in free-flowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations. The Congress declares that the established national policy of dams and other construction at appropriate sections of the rivers of the United States needs to be complemented by a policy that would preserve other selected rivers or sections thereof in their free-flowing condition to protect the water quality of such rivers and to fulfill other vital national conservation purposes."

In addition to the North Fork already being designated as a Wild and Scenic river, the U.S. Forest Service has found 113 miles of its tributaries to be eligible for inclusion in the National Wild and Scenic Rivers System. These tributaries, all of which flow into the North Fork from the Whitefish Range, include Big Creek, Coal Creek, South Fork Coal Creek, Cyclone Creek, Gateway Creek, Hallowat Creek, Langford Creek, Mathias Creek, Moose Creek, Red Meadow Creek, Shorty Creek, South Fork Shorty Creek, Trail Creek, and Whale Creek (see Appendix B for map showing all designated and eligible river reaches in the Flathead watershed). Under the Wild and Scenic Rivers Act and the Flathead National Forest's current Forest Plan, these eligible tributaries are supposed to be managed as it they were already designated.

OIL & GAS RESOURCES NEGLIGIBLE

While some public lands in the North Fork watershed were leased for oil and gas drilling in the 1980s, the Department of the Interior subsequently suspended all of those leases due to legal deficiencies pertaining to National Environmental Policy Act and Endangered Species Act compliance. Consequently, no oil and gas drilling has occurred on public lands in the North Fork watershed, and no economic impacts would occur if these leases were permanently withdrawn. In fact, since the North Fork Watershed Protection Act was first introduced in the 111th Congress, energy companies including Conoco Phillips, Chevron, Anadarko, Allen and Kirmse, Ltd., Exxon Mobile/XTO Energy, and BP have voluntarily relinquished oil and gas leases on 200,000 acres in the Flathead watershed at no cost to American taxpayers. This represents 80% of the leased acreage on the Flathead National Forest.

There is recent precedent for Congress withdrawing certain outstanding public lands from mining and oil and gas leasing due to unacceptable impacts to water quality, air quality, fish and wildlife, scenery, and archeological sites. For example, in 2006 Senator Baucus sponsored legislation that withdrew 500,000 acres of public lands along the Rocky Mountain Front from oil and gas leasing. In the Omnibus Public Lands Management Act of 2009, Congress withdrew 1.2 million acres of the Wyoming Range in northwest Wyoming from oil and gas leasing, and another 101,000 acres in New Mexico's Valle Vidal.

AGREEMENT BETWEEN MONTANA & BRITISH COLUMBIA

Following more than three decades of highly contentious battles over proposed mining and oil and gas drilling in the headwaters of the North Fork, British Columbia announced in February 2010 its intention to withdraw its portion of the Flathead watershed from all forms of mining and oil and gas drilling. Shortly thereafter,

Montana Governor Brian Schweitzer and British Columbia Premier Gordon Campbell signed an international agreement that committed the U.S. and Canada to, among other things: "Remove mining, oil and gas, and coal development as permissible land uses in the Flathead River Basin." By passing S. 233, Congress can uphold the promises Montana made in the agreement, while also increasing the likelihood that British Columbia will follow through on its commitments.

CONCLUSION

Given the globally significant environmental values of the North Fork watershed including its pristine water quality, wild rivers, and unparalleled abundance and diversity of fish and wildlife; the non-existent role that mining and oil and gas drilling in the North Fork plays in the local economy; the widespread local support for permanently protecting the watershed from such activities; and the recent agreement signed by Montana and British Columbia; American Rivers strongly supports passage of S. 233 and commends Senators Baucus and Tester for taking a leadership role in introducing it. In the wake of the 100-year anniversary of Glacier National Park in 2010, Congress could give the nation no greater gift than to protect the pristine waters that form its western boundary.

Thank you for taking our testimony into consideration.

Sincerely,

SCOTT BOSSE,
Director.

MISSOULA AREA CHAMBER OF COMMERCE,
Missoula, MT, May 4, 2011.

Hon. SENATOR JON TESTER,
724 Hart Senate Office Building, Washington, DC.

DEAR SENATOR TESTER, The Missoula Chamber of Commerce has tracked the progress of the Forest Jobs and Recreation since its introduction in July of 2009. Recently, after several educational presentations and a great deal of conversation, our Governmental Affairs Committee voted unanimously to recommend that we endorse the bill and on April 20th, our Board of Directors accepted this recommendation and we're pleased to announce our endorsement of this important legislation.

The Forest Jobs and Recreation Act represents a turning point in the long and tense debate over the management of federal land in Montana. This legislation offers Montanans the opportunity to move beyond the false choices of Wilderness conservation, forest recreation or active timber management. Instead, this legislation aims to advance each of these objectives at the same time by managing a 'land of many uses' in a manner that increases timber production, guarantees recreational access and protects some of our last best places.

By ensuring timber supply to local mills, protecting wildlife habitat that is vital to Western Montana's tourism industry and guaranteeing recreational access for all Montanans, the Forest Jobs and Recreation Act opens the door to new and sustained economic productivity on Montana's forests. We encourage you and your colleagues in the Senate to do all that you can to pass this legislation.

Thank you for all that you and your staff are doing for Montanans.

Sincerely,

GARY CLARK,
Chairman.

KIM LATRIELLE,
President/CEO.

BROADWATER COUNTY,
BROADWATER COUNTY COMMISSIONER,
Townsend, MT, June 7, 2011.

Hon. JEFF BINGAMAN,
Chair, Senate Energy and Natural Resources Committee.

Re-Support for Forest Jobs and Recreation Act from Montana

DEAR SENATOR BINGAMAN AND DISTINGUISHED MEMBERS OF THE COMMITTEE, Thank you for taking the time for this very important hearing.

The Forest Jobs and Recreation Act is important to Montana and important to Broadwater County.

In Montana, we've lost too many lumber mills and, by extension, too many jobs. Currently we are dealing with record flooding due, in large part, to lack of forest management. Forest fires from a decade ago left tree skeletons that do nothing to alleviate spring runoff resulting in nearby streams filling with silt and debris.

In Broadwater County, RY Timber is one of the few lumber mills left, not only in Montana, but in this western region. They have been a good neighbor and a good partner with agencies like the Forest Service, and through their work have aided in Forest Management, when allowed.

RY Timber provides work for 100 direct employees and 200 indirect employees and they contract with another 200 individuals. These are good paying jobs with full benefits and needed for our community and our local economy. Their business plan is to log private land and harvest that timber, along with working on federal lands. Those managed private forests have been healthy as compared to Forest Service land where trees have had to complete with over growth and for water through draught, this has left them vulnerable to the Pine Bark Beetle, which has resulted in mountains of federal forest that are red, dead and decaying.

With spring rains and runoff there is nothing to stop the top soil from flowing down the mountain into streams which fills up culverts and result in flooding over roads, onto fields and into homes.

Please support and vote for the Forest Jobs and Recreation Act. It is indeed a jobs bill, an economic development opportunity and a responsible compromise that positively supports the west, Montana, our forests and our communities.

Thank you,

LAURA OBERT,
Chair.
ELAINE GRAVELEY,
District 2.
GAIL M. VENNES,
District 3.

STATEMENT OF MARK ANDERLIK, LOCAL UNION 427, UNION EXECUTIVE OFFICER, MISSOULA AREA CENTRAL LABOR COUNCIL, AFL–CIO, PRESIDENT, MISSOULA, MT, ON S. 268

By a majority vote, the Missoula Area Central Labor Council (MACLC) Executive Board voted to endorse U.S. Senator Jon Tester's "Forest Jobs and Restoration Pilot Initiative," previously known as the "Forest Jobs and Recreation Act."

The bill was slightly modified from the previous version, with the major difference being, according to the Missoulian, is that a logging mandate that called for 100,000 acres of "mechanical treatment" over 10 years has been extended to 15 years. See the 12/15/10 Missoulian article by Rob Chaney at http://missoulian.com/news/local/article__7037921e-07c8-11e0-a539-001cc4c002e0.html.

The MACLC involvement has included both the bill's proponents and opponents addressing our Council. We had been waiting for bill language that would strengthen the creation of good sustainable jobs. The language of the bill now includes "best value contracting" language, and, as a Federally-funded project, it will require that prevailing wages (Davis-Bacon Act) be paid. The "best values" have not been determined yet and is not written into the bill. That will be done administratively, and is a process that we will help influence. However the commitment to create good sustainable Montana jobs is clearly there.

We applaud Sen. Tester and his staff for all of the work they put into finding common ground among very diverse interests within Montana in crafting this bill. As union members we know that we don't always get everything we want in negotiations. Yet this bill overall is a big step forward for working Montanans and for our environment. And we are encouraged that the open and collaborative process used in creating the bill will be used elsewhere in the state. We hope this bill will be passed in the near future.

Please visit Sen. Tester's website at http://tester.senate.gov/Legislation/foresthome.cfm for more detailed information about the bill.

SEELEY LAKE RURAL FIRE DISTRICT,
Seeley Lake, MT, May 26, 2011.

Montana Congressional Delegation.

Hon. SEN. JON TESTER,
Hon. SEN. MAX BAUCUS,
Hon. REP. DENNY REHBERG.

DEAR SIRS, The Seeley Lake Rural Fire Department wishes to express its support for Senator Tester's Senate Bill 268, Forest Jobs and Recreation Act of 2011. This bill is a made-in-Montana solution for our economic and environmental woes as seen in our loss of timber mills, beetle epidemic, and lack of protection for some of the most pristine portions of our state. It is the culmination of the work of three collaborative groups across the state—the Beaverhead-Deerlodge Partnership, the Blackfoot Clearwater Stewardship Project, and the Three Rivers Challenge—who have taken the initiative, with local input and support across a wide range of perspectives, to develop plans for wise resource management, create jobs in the woods, and protect forever some of the most beautiful landscapes in Montana. We encourage you to support this well-balanced legislation.

In all three project areas, the Forest Jobs and Recreation Act proposes stewardship logging and forest restoration projects that will result in healthier watersheds, enhanced wildlife habitat, and working forests while concurrently providing good paying jobs for local residents. In addition, the bill encourages biomass energy production in all project areas. This will provide an outlet for local forest products well beyond those provided by the stewardship projects as well as place Montana as a leader in energy independence.

The bill also sets aside some of Montana's most pristine backcountry so that future generations of Montanans can camp, hunt, fish, and recreate with their families just as we do today. These areas are set aside without negatively affecting motorized or mechanized use. Our forests are big enough for everyone, and the Forest Jobs and Recreation Act embodies this philosophy.

The Seeley lake Rural Fire Department has thoroughly reviewed and discussed the various components of this legislation. We believe the Forest Jobs and Recreation Act will significantly improve the safety of communities and reduce the risk of catastrophic wildfire by mitigating fuels in the forest, making use of small wood, and reducing the risk of beetle infestation in the future. Fuels mitigation projects are already taking place in the Clearwater and Blackfoot valleys, but these projects need to continue for our forests to be healthy and our communities safe. The Forest Jobs and Recreation Act will help put more projects on the ground to reduce the risk of wildfire.

Thank you for your consideration of this important legislation. If you have any questions, please feel free to contact me at your convenience.

FRANK MARADEO,
Chief.

June 8, 2011.

Hon. SENATOR RON WYDEN,
Chairman, Subcommittee on Public Lands and Forests, Energy and Natural Resources Committee Office, 304 Dirksen Senate Building, Washington, DC.

SENATOR WYDEN, AND MEMBERS OF THE SUBCOMMITTEE: The undersigned members of the Blackfoot-Clearwater Stewardship Project steering committee request that the following comments be submitted for the Congressional record concerning Senate Bill 268, the Forest Jobs and Recreation Act of 2011.

We greatly appreciate the time and attention given this legislation by the Subcommittee for Public Lands and Forests, as well as the Senate Energy and Natural Resources Committee as a whole, since this legislation was first introduced in July of 2009. For several reasons, we encourage you and your Senate colleagues to do all that you can to ensure the passage of this legislation at the nearest opportunity.

For more than five years, local communities in the Blackfoot and Clearwater River watersheds have worked together to establish and promote a vision for wilderness, snowmobile recreation, and increased forest management for commercial timber harvest and restoration on the Seeley Lake Ranger District of the Lolo National Forest. Senator Tester took this vision one big step closer to reality when he included our legislative ideas as part of the Forest Jobs and Recreation Act.

While we cannot speak to the provisions of this legislation that pertain to the Beaverhead-Deerlodge or Kootenai National Forests, we can state for the record that passage of the Forest Jobs and Recreation Act is a critical step toward realizing

the goals championed by this steering committee in the Blackfoot Clearwater Stewardship Project. We hope to see this legislation pass very soon.

Thank you for your consideration.

Sincerely,

Orville Daniels, *Former Supervisor*, Lolo National Forest; Jim Stone, *Rolling Stone Ranch*—Ovando, MT; Bill Wall, *Sustainable, Inc.*—Seeley Lake, MT; Smoke Elser, *Wilderness Outfitters*—Missoula, MT; Jack Rich, *Rich Ranch Outfitting*—Seeley Lake, MT; Loren Rose, *Comptroller*, Pyramid Mountain Lumber; Jon Haufler, *President*, Clearwater Resource Council; Gloria Flora, *Executive Director*, Sustainable Obtainable Solutions; Brian Sybert, *Executive Director*, Montana Wilderness Association; Scott Brennan, *Northern Rockies Forest Program Director*, The Wilderness Society.

MONTANA HIGH DIVIDE TRAILS,
June 7, 2011.

Hon. SENATOR JEFF BINGAMAN,
Chair, U.S. Senate, Energy and Natural Resources Committee, Washington, DC.

Re: Urge Passage of S-268, Forest Jobs and Recreation Act

DEAR SENATOR BINGAMAN, Montana High Divide Trails is the nation's largest partnership between horseback riders, mountain bikers, hikers and conservationists. Five years ago, representatives from nine Montana outdoor organizations met for the first time to begin negotiations resulting in a cooperative agreement for conserving wild lands and backcountry trails along 240 miles of the Continental Divide and Flint Creek Range.

We are very pleased that Senator Tester included joint recommendations from Montana High Divide Trails in the Forest Jobs and Recreation Act.

The nine partner organizations listed above strongly support passage of the Forest Jobs and Recreation Act, S-268, as amended. S-268 includes seven wilderness and backcountry recreation areas endorsed by Montana High Divide Trails in the Flints and along the Continental Divide.

- Lost Creek Protection Area
- Dolus Lakes Wilderness
- Thunderbolt Creek Recreation Area
- Anaconda-Pintler Wilderness Additions
- Humbug Spires Wilderness
- Highlands Wilderness
- Electric Peak Wilderness

This bill combines years of collaborative work by Montanans into a transformative vision of conservation stewardship. Passage of the Forest Jobs and Recreation Act will protect and pass on outstanding areas of wilderness and backcountry recreation of great value to our diverse members and their families and communities across Southwest Montana.

In December 2009, the nine groups that comprise Montana High Divide Trails submitted the attached testimony which we again submit to committee members and staff in support of passage of S-268 which will permanently protect seven outstanding wilderness and recreation areas endorsed by our partners.

The Forest Jobs and Recreation Act was recently amended in response to public and agency comments. One change converts 5,000 acres of proposed wilderness into the Highlands Special Management Area with provisions to protect municipal water and transmission facilities and continue mountain training from time to time with helicopter support.

We support the amended Highlands Wilderness and Special Management Area and applaud Senator Tester and the committee staff for listening and responding in a way that fully protects this majestic range of snowcapped mountains south of Butte.

Other changes clarify management of proposed Recreation Areas including the proposed Lost Creek and Thunderbolt Creek Recreation Areas of great interest to Montana High Divide Trails. We support these improvements. We also respectfully suggest to avoid confusion, the reference under Section 207 (b) Administration (4B subparts i and ii) to "mechanized vehicles" (mountain bikes) be preceded by the word "non-motorized."

We wish to express our deep appreciation for Senator Tester's visionary leadership in sponsoring the Forest Jobs and Recreation Act and urge passage by the Committee.

Please include these comments and attachments from Montana High Divide Trails Partnership in the hearing record for S.268, the Forest Jobs and Recreation Act.

ATTACHMENT.—UNIFIED SUPPORT FOR HIGHLANDS PROPOSED WILDERNESS

January 8, 2010.

In reviewing USDA testimony we were surprised to find a suggestion that the Highlands Crest may be dropped from wilderness consideration.

The proposed Highlands Crest Wilderness forms a majestic mountain backdrop for the community of Butte, towering above the surrounding Continental Divide and Continental Divide National Scenic Trail.

The rugged 10,000 + foot peaks of the Highlands Recommended Wilderness with its deep canyons, archeological sites, mountain goat, moose elk and bighorn sheep habitat are central to a unique collaborative partnership endorsed by mountain bikers, back country horsemen, hunters, hikers and conservation groups known as Montana High Divide Trails.

Due to outstanding wilderness characteristics, the Highlands Wilderness was recommended for wilderness by the U. S. Forest Service in the 2009 final Beaverhead-Deerlodge National Forest Plan.

The committee should be aware the forest plan recommendation to designate the Highlands Wilderness is one which all nine of our organizations recommended in the draft forest plan and supported in the final.

The rationale cited in USDA testimony is related to an issue that had been carefully worked out collaboratively in advance of the introduction of S. 1470.

Here is an excerpt from Under Secretary Harris Sherman's Testimony:

> Highlands: This area was recommended for wilderness in the Beaverhead-Deerlodge Land and Resource Management Plan. Specifically the bill allows for helicopter landings for military exercises. When the Forest Service made its wilderness recommendation it envisioned the military flights being relocated to a different location when the special use authorization expired, and thus viewed them as temporary in nature. S. 1470 would permanently authorize helicopter landings for military training within the Highlands area. We are not aware of a military landing being legislatively authorized in wilderness before and we are concerned that a precedent may be established by this legislation. We would like to work with the committee to either remove this requirement or explore alternative designations for the Highlands area.

Background

Several times a year the U. S. Forest Service permits a Montana national guard helicopter to briefly land on a small level area atop 10,223-foot Table Mountain. No personnel or supplies are off-loaded. The purpose of the landing is simply to be readily available in the event that any of a small group of wilderness skills trainees dropped by parachute miss the summit and drift onto surrounding cliffs.

With all due respect, we don't believe this sets a damaging precedent. The U. S. Forest Service, National Park Service and Bureau of Land Management currently authorize (limited) helicopter landings for a variety of purposes within designated wilderness areas.

While we agree finding an alternative location outside wilderness is desirable, we are also aware from our collaborative work on the Highlands Wilderness that Table Mountain presents circumstances that may not be readily duplicated.

We would like to suggest that the USDA look for reasonable options that don't require loss of this outstanding recommended wilderness.

The nonconforming use cited by USDA only takes place in one very specific location of perhaps 100 acres on Table Mountain. No other locations within the proposed wilderness are affected.

If changes are necessary we respectfully request the committee consider a alternative designation ONLY for the specific area where nonconforming use is an issue, while acting to keep the remaining proposed 20,000 acre Highlands Wilderness intact -as recommended in the new forest plan.

Please include this as a special addendum to Dec 16, 2009 letter of support for S 1470 submitted for hearing record on behalf of the above listed southwest Montana outdoor and conservation organizations.

Montana High Divide Trails is the nation's largest conservation agreement between mountain bikers, backcountry horsemen and women, hikers, and conservationists. http://www.wildmontana.org/programs/quiettrails2.php

Hon. JEFF BINGAMAN,
Chair, Senate Energy and Natural Resources Committee, U.S. Senate, SD-304 Washington, DC.

Hon. LISA A. MURKOWSKI,
Ranking Member, Senate Energy and Natural Resources Committee, U.S. Senate, SD-304 Washington, DC.

DEAR CHAIRMAN BINGAMAN AND RANKING MEMBER MURKOWSKI: Montana's legendary hunting and fishing and outdoors heritage is closely tied to our public lands legacy. As such, Senator Jon Tester's Forest Jobs and Recreation Act (FJRA), S. 268, provides the best chance in a generation to ensure that Montana's highquality sporting traditions endure for generations in several important regions of the state.

FJRA maps out a plan of protection for some of Montana's most critical intact wildlife and fisheries habitat with the designation of more than 600,000 acres of popular wild country into the nation's Wilderness System, and another 300,000 acres-plus into undeveloped recreation areas. These tracts, in western and southwestern Montana, contain critical security habitat for big game such as elk, bighorn sheep, mountain goats, moose and mule deer. These areas are also vital for conservation of rare species such as wolverine, sage grouse and grizzly bears. Headwater tributaries of some of Montana's most critical and famed blue ribbon trout rivers, including Rock Creek and the Big Hole, Missouri, Madison, Jefferson, Beaverhead, Kootenai, Blackfoot and Clark Fork Rivers are contained within proposed Wilderness areas in FJRA. This bill would protect critical species such as bull trout and westslope cutthroat trout while ensuring that future generations of anglers and hunters will have places to fish and hunt.

This bill also includes a mechanism for restoring many miles of damaged trout stream and thousands of acres of forest through stewardship projects that trade the value of timber removed through environmentally responsible logging and thinning for restoration activities, such as reducing erosion sources and barriers to fish movement. By harvesting a renewable resource in previously developed areas that are being attacked by insect infestations, FJRA partners and the Forest Service can better reduce fire risk to communities, private property and important public infrastructure that adjoins national forests.

Moreover, FJRA will help ensure that steady, good-paying jobs working in the woods stay in Montana. The jobs will be in local logging companies and mills, outfitting and guiding services, businesses that specialize in habitat restoration and improving recreational sites. Security habitat for elk will be restored through FJRA's tools, as will creeks that have been damaged by extractive practices of generations before.

FJRA also ensures that the responsible sportsmen and women who use motorized vehicles off highway to access public lands designated for that use will continue to have access. By designating more than 300,000 acres of motorized areas to the national recreation system, FJRA ensures that the existing, legal motorized access, such as snowmobile use, in these areas continues.

As sportsmen and women with a passion for the outdoors and for the Montana way of life that depends so much on a public lands tradition, we are in full support of Sen. Tester's bill. It represents balance and a protection of the customs and culture that characterize our outdoor legacy.

Sincerely,

Backcountry Hunters and Anglers, MT, Backcountry Hunters and Anglers, National, Big Blackfoot Chapter, Trout Unlimited, Bitter Root Chapter, Trout Unlimited, Flathead Backcountry Horsemen, Flathead Valley Chapter, Trout Unlimited, Hellgate Hunters and Anglers, Joe Brooks Chapter, Trout Unlimited, Kootenai Valley Trout Club, Lewis and Clark Chapter, Trout Unlimited, Madison Gallatin Chapter, Trout Unlimited, Magic City Fly Fishers, Montana Backcountry Horsemen, Montana Trout Unlimited, Montana Wildlife Federation, National Trout Unlimited, National Wildlife Federation, Pat Barnes-Missouri River Chapter, Trout Unlimited, Snowy Mountain Chapter, Trout Unlimited, Theodore Roosevelt Conservation Partnership, West Slope Chapter, Trout Unlimited.

STATEMENT OF JENN DICE, DIRECTOR OF GOVERNMENT AFFAIRS, INTERNATIONAL MOUNTAIN BICYCLING ASSOCIATION, ON S. 233, S. 268, S. 375, S. 714 AND S. 730

Mr. Chairman and Members of the Committee, thank you for the opportunity to provide input on S. 268, the Forest Jobs and Recreation Act of 2011. The International Mountain Bicycling Association (IMBA) appreciates the effort by U.S. Sen-

ator Jon Tester and his staff to maintain an ongoing dialogue regarding the concerns of the mountain bicycling community. IMBA supports many of the proposed Wilderness areas and applauds the senator's desire to include Special Management Area (SMA) and Recreation Management Area (RMA) designations that will protect the undeveloped nature of these areas while embracing the recreational values for which these lands are cherished.

Founded in 1988, IMBA leads the national and worldwide mountain bicycling communities through a network of 80,000 individual supporters, 750 affiliate clubs, and 600 dealer members. IMBA teaches sustainable trail building techniques and has become a leader in trail design, construction, and maintenance; encourages responsible riding, volunteer trail work, and cooperation among trail user groups and land managers. Each year, IMBA members and affiliated clubs conduct almost one million hours of volunteer trail stewardship on America's public lands and are some of the best assistants to federal, state, and local land managers.

Wilderness designations are a difficult issue for IMBA and mountain bicyclists. On the one hand we want to preserve the beauty and experience of wild landscapes for future generations. On the other hand, federal land management agencies interpret the Wilderness Act of 1964 to prohibit the use of mountain bicycles. Our decision to support a Wilderness proposal or bill is not one we take lightly. Only when we have worked with the Wilderness proponents to develop win-win solutions can we fully support the designation.

BENEFITS TO THE MONTANA RECREATION ECONOMY

Of the thirty-five (35) units, totaling 1,019,764 acres, IMBA supports thirty (30) in their entirety. We request boundary adjustments in the remaining five (5) units. The changes would lead to a net reduction of Wilderness of 23,419 acres and a net increase in Recreation Management Area acreage of 16,319. Thus, IMBA supports 97.7 percent of the acreage in the current draft of this bill.

Rural communities around the West can no longer depend entirely on resource extraction. Many small towns have diversified and now reap the benefits of a recreation goods and services economy. The recreation industry creates jobs through increased visitation, which drives retail sales and services across multiple channels. Locations with valuable recreational assets also attract outdoor and cycling industry companies that have employees and owners who prefer to live and work close to the places they play.

This bill includes many provisions that support the recreation economy by opening trails to cyclists through the release of more than 66,815 acres of Wilderness Study Area (WSA), and the creation of more than 369,500 acres of Recreation Management Area or Special Management Area. Some trail examples are:

- Tobacco Roots RMA: Lost Cabin Trail and the Tobacco Root Trail totaling roughly 30 miles
- Axolotl Lakes former WSA: Proposed Virginia City Trails estimated at 30 miles
- West Pioneer RMA: West Pioneer Loop and additional trails totally potentially 220 miles
- Lost Creek RMA: 15 miles of existing trail
- Thunderbolt Creek SMA: 40 miles of proposed trail

IMBA does not agree with the Forest Service Region One (R1) decision to ban bikes from Recommended Wilderness, however, we applaud Senator Tester's efforts with this legislation to move this issue forward by proposing a permanent solution for these world-class Montana landscapes.

CONTINUED MOUNTAIN BICYCLE ACCESS TO THE CONTINENTAL DIVIDE NATIONAL SCENIC TRAIL AND OTHER TRAILS

Since the deliberations for S. 268 have evolved over many years, it is important to note that the USDA Forest Service recently released their new directives for the Continental Divide National Scenic Trail (CDNST) which states, "Bicycle use may be allowed on the CDNST (16 U.S.C. 1246(c)) if the use is consistent with the applicable land and resource management plan and will not substantially interfere with the nature and purposes of the CDNST."

Cycling on the CDNST in Southwestern Montana is a unique and important recreational asset. While there are some sections of the trail not appropriate for mountain biking, many portions of the trail are. IMBA places high priority on the CDNST and has asked for several small adjustments to keep this important trail open to mountain bicycling.

- Anaconda/Pintlar Wilderness Additions: IMBA requests boundary adjustments for the CDNST, Bender Point, and Trail #44 to Twin Lakes. This boundary adjustment would result in a reduction of Wilderness of less than 3,000 acres.
- Italian Peak: A boundary adjustment of roughly 4,000 acres is requested here to allow continued access to the CDNST.
- Centennial/ Mt Jefferson: In several extremely short sections along the southern border of the proposed Centennial Wilderness, the CDNST crosses the boundary. We request that the trail become the boundary to maintain the possibility of future bicycle access. We further request that the boundary between these two units be a non-wilderness corridor, allowing non-motorized access to the existing CDNST with no net loss of Wilderness acreage.

IMBA requests several other important adjustments:

- Lima Peaks: We request that this area become two units divided by a non-wilderness corridor, allowing non-motorized access on the Little Sheep Creek Trail. The resulting Wilderness units would both be roughly 17,000 acres and the Wilderness reduction would be less than 1000 acres.
- Scapegoat Wilderness Addition: We request the enlarging the Otatsy Recreation Management Area to encompass the Falls Creek Trail and allowing non-motorized access to this trail. This would expand the RMA to roughly 15,289 acres and reduce the Scapegoat Wilderness addition to 18,178 acres. The result would be a net increase in protected lands of 2,500 acres.
- West Big Hole Recreation Management Area and Wilderness: We believe this important Recreation Management Area should allow bicycle access to the trails within the north and south Wilderness units. We believe non-motorized trail corridors would be the best way to maintain this access, which would result in less than a thousand (1000) acre reduction of Wilderness and is still protected by the Recreation Management designation. These two proposed Wilderness units within the West Big Hole RMA were not Forest Service Recommended Wilderness.

STEWARDSHIP TRAIL PROJECTS AND ROAD TO TRAIL CONVERSIONS

Finally, the Act stipulates that forest and watershed restoration projects will be designated each year. These stewardship projects use new best management logging practices with regard to timber sales, road densities, wildlife habitat, trail development, and allow for revenue from timber sales to remain in the district. IMBA hopes the USDA Forest Service and Senator Tester will consider directing potential funding to trail building in order to replace trails where mountain bikes are no longer allowed. IMBA will participate at the local level to aid in the creation of new trails. IMBA appreciates that the legislation has suggested road to trail conversions in some cases, and offers our professional trail building expertise in creating an environmentally sound, sustainable trail systems.

IMBA and the Montana mountain bicycling community welcome the opportunity to join with others to protect Montana, to ensure current and future generations can enjoy high-quality outdoor experiences away from development, noise, and poorly planned resource extraction. We look forward to continued discussion of how best to meet the needs of mountain bikers and other trail users for these very special regions of Montana.

BACK COUNTRY HORSEMEN OF MONTANA,
Butte, MT, June 8, 2011.

Hon. JON TESTER,
Senator, 724 Hart Senate Building, Washington DC.

DEAR SENATOR TESTER, The Back Country Horsemen of Montana are committed to helping with the solid endorsement and support of your newly introduced bill S.268, The Forest Jobs and Recreation Act of 2011.

We have in the past endorsed the Beaverhead Partnership and the Blackfoot Clearwater Stewardship Projects. And it should be no great surprise that we endorse any new wilderness designations suitable for our great state.

Beyond the wilderness issue is the jobs issue which we have been equally concerned about over the past few years as we have watched our timber industry disintegrate here in Montana. The cooperative efforts exemplified in such initiatives as the Beaverhead and Blackfoot projects are grand representations of what Montanans can do when they sit down together to solve their problems together.

Our pine forests are in desperate need of attention and while we certainly wouldn't want to log it all, the establishment of a sustainable timber base coupled

with stewardship projects that return harvested areas to productive use quickly, and provide for protected water and wildlife sanctuaries, represents sound thinking that will serve Montanans for many generations to come.

S.268 stands to greatly aid Montana in preserving its timber processing infrastructure, an industry we cannot afford to loose. At the same time it will help preserve, protect and enhance some of the best wildlife and fisheries habitat in North America. It also ensures that traditional activities such as fishing ,hunting, horse packing, camping and hiking will continue for generations. It also guarantees access for every outdoor pursuit.

Back Country Horsemen of Montana applaud you on these complex matters and will stand beside you as partners through this legislative process.

Sincerely,

JOHN CHEPULIS,
Chairman.

STATEMENT OF BILL HALLINAN, PRESIDENT, THE WILD DIVIDE CHAPTER OF THE MONTANA WILDERNESS ASSOCIATION, HELENA, MT, ON S. 268

As the Wild Divide Chapter of the Montana Wilderness Association based in Helena, Montana, we represent over 500 members in an area encompassing lands to be included in the Forest Jobs and Recreation Act. As such, we strongly support the creation of this Act to both preserve pristine wild lands and ensure resource jobs for future generations in Montana. The Act is truly a grassroots, Montana made initiative, as local as any proposal can get in the United States representing a broad range of groups from hunters and anglers, to hikers, bikers, horsemen, ranchers, and loggers.

As Montanans we feel strongly about deciding what is in the best interest of our state and our backyard. The FJRA is a Montana initiative made in the state, for the future generations of the state and not created by Washington lobbyists. We appreciate the approval of the Committee to uphold our right to do what is best for our own backyard, and to preserve what is best about America.

Many of the lands included in the FJRA will be utilized for off-road vehicle enthusiasts, timber sales and other multi-use purposes. The wilderness component of the legislation is a very small portion of the lands included in the Act, and will preserve some of the most pristine and inaccessible environments of the United States, which host some of the most dynamic and vital ecosystems in the world. The timber sales included in the act will ensure the creation of new timber jobs in towns hard hit by recent economic times such as Townsend, Hamilton, Libby, and Deer Lodge Montana.

None of the areas identified as potential wilderness in the FJRA have abundant mineral extraction potential, nor do they possess any other need for development such as abundant water resources or even large scale timber extraction. These lands represent a small fraction of the wild West—just three-quarters of one percent of Montana (0.74%). They are important for Montanans to protect for future generations because they are beautiful, irreplaceable locations: they encompass key wildlife habitat, important watersheds, opportunities for quiet recreation, and a source of economic stability and growth. We of the Wild Divide Chapter of the Montana Wilderness Association are committed to protecting both jobs and the environment in our state, and we urge the committee to pass the Act, and allow us to self-determine what is best for our land and our backyard.

STATEMENT OF STEVE SENINGER, PH.D., ECONOMIST, MISSOULA, MT

Public lands, wilderness areas, and road less backcountry play an active and important role in Montana's economy creating jobs and stimulating economic growth. Wilderness lands are sources of clean air and water, provide wildlife habitat and are a sustainable base for some of Montana's major industries, such as tourism/recreation and forest products. The Forest Jobs and Recreation Act's creation of both new wilderness lands and increased timber harvests focuses on jobs & economic viability in two important economic sectors, tourism/recreation and forest products.

Jobs in Montana's outdoor recreation and tourist industry are based on the attractive power of our scenic outdoors, mountains, forests and the highways providing access to these attractions. Annual surveys of out-of-state visitors to Montana show that the state's most important attracting attributes were clean waterways, clean air, wildlife viewing opportunities, scenic vistas, open space, opportunities to view the night sky, and access to public lands and waters. Survey data also show positive

out-of-state visitor perceptions of Montana, giving our state high scores for road conditions and environmental stewardship [Bureau of Business and Economic Research, University of Montana, www.bber.umt.edu].

Missoula County's tourism and outdoor recreation sector is a major employer representing 3,200 jobs annually making this one of the top five employment sectors in the county. Annual spending by out of state, non-resident visitors to Missoula County in 2009 was approximately $227 million dollars and spending by residents on all forms of outdoor activity and recreation was $61 million dollars for a total of $288 million dollars in expenditures annually within the county. At the state level, in 2009, travel expenditures by nonresident visitors totaled over $2.3 billion, which generated over $153 million in state and local taxes within Montana. Non-resident visitor spending generated 25,480 Montana jobs and contributed $661 million in total personal income for Montana households [Institute for Tourism and Recreation Research, University of www.itrr.umt.edu].

Montana's wilderness areas support the state's outfitting industry, composed of guided hunting, fishing, and wilderness trips. In 2005, 319,000 people took guided trips, and only 10 percent were from Montana. Using non-resident visitation and expenditure data for Missoula County yields estimates of 260 full time jobs in the outfitting industry as part of the non-resident visitation employment base within the county.

State and federal forest lands are an important part of Montana's primary wood and paper products industry with total sales of $325 million, employment of over 6800 workers in 2010 and important tax payments to our state and local governments. Forest products firms are major employers in many towns and rural communities throughout Montana [Montana Department of Labor and Industry, www.ourfactsyourfuture.org; Bureau of Business and Economic Research, www.bber.umt.edu].

The Forest Jobs and Recreation Act provision of guaranteed timber acreage from federal forest lands offers long run sustainability of many local lumber mills and employment for restoration contractors and foresters for private and public land management. Establishment of a more reliable lumber supply for local lumber mills is especially critical in the next several years as improving wood products markets recover and experience increased softwood lumber exports creating new jobs and alleviating unemployment in rural communities throughout Montana.

Wilderness and protected public lands also affect economic growth in other sectors such as business and professional services. People come to business conferences and meetings in Montana attracted by opportunities to float and fly fish a river, pack into wilderness back country, or simply get out and recreate in scenic public landscapes. These experiences serve as a 'magnet' to new businesses and jobs in sectors such as financial services, health care, and information technology. In the new economy, a quality environment is a key economic asset. Protecting and enhancing environmental qualities has been essential for economic prosperity throughout the larger Rocky Mountain West region—Montana, Idaho, Utah, Wyoming, and Colorado. Communities in this region with quality businesses and quality workers will likewise grow and prosper. When people are asked why they are moving to these areas, they say "for the quality of life, the open lands and the natural environment". Wilderness areas and public lands are an integral, sustainable part of Montana's economy and major reasons why we live, work, and recreate in this state [.Center for the Rocky Mountain West, www.crmw.org/MontanaOnTheMove; Sonoran Institute, www.sonoraninstitute.org].

SOURCES

Bureau of Business and Economic Research, Outlook 2011: Paying for the Recession Rebalancing Montana's Economy, University of Montana, Missoula, Montana, 2011, pp. 18, www.bber.umt.edu

Center for the Rocky Mountain West, University of Montana, 2003, www.crmw.org/MontanaOnTheMove .

Headwaters Economics, Energy Development and the Changing Economy of the West, Bozeman, Montana, September 2008-revised 06/24/09, www.headwaterseconomics.org/energy .

Institute for Tourism and Recreation Research, The Economic Review of the Travel Industry in Montana: 2010 Biennial Edition, University of Montana, Missoula, Montana, July 2010; www.itrr.umt.edu .

Montana Department of Labor and Industry, www.ourfactsyourfuture.org.

Niche News: Montana's Outfitter and Guide Industry 2007, www.itrr.edu.

Sonoran Institute, (Ray Rasker, Ben Alexander, Jeff van den Noort, and Rebecca Carter) Prosperity in the 21st Century West: The Role of Protected Public Lands, July 2004, http://www.sonoraninstitute.org/library/reports .
US Department of Commerce, Bureau of Economic Analysis, www.bea.doc.gov .
Western Montana InBusiness Monthly, May, 2010 vol. 8, no.5.

STATEMENT OF JENNIFER LAZO, THE GREATER YELLOWSTONE COALITION, LOS ANGELES, CA, ON S. 268

I am writing to express my support for S. 268, the Forest Jobs and Recreation Act of 2011.

We need this bill to protect and restore the Greater Yellowstone Ecosystem's natural heritage because it is one of the last remaining, nearly intact ecosystems left in the world.

S. 268 will protect some of the last and best unroaded backcountry habitats in SW Montana. These core habitats are vital to the Greater Yellowstone Ecosystem's iconic wildlife. The bill will put people back to work in the woods fixing damaged landscapes and reducing wildfire hazards near our rural communities. This bill offers a new vision for the management of our public lands, and I wholeheartedly support this bill not only for Montana, but for all Americans who enjoy wild places.

I also support the wilderness designations in this bill. Places like the Snowcrest Range, Centennial Mountains and the East Pioneers have long deserved permanent protection. It has been almost 30 years since a Montana wilderness bill has passed; in that time we have lost a lot of wilderness quality lands. Now is the time to act, before we lose more of our pristine backcountry lands.

This bill will help build new restoration jobs and strengthen Montana's timber infrastructure. We need to maintain sawmills and infrastructure to address the restoration needs on our national forests and the wildfire hazards surrounding our communities.

The Forest Jobs and Recreation Act will benefit people across the country by ensuring healthy forests and clean water for future generations. It will add 650,000 acres of new wilderness, and it will create jobs. Please support S.268. Americans will benefit from it today, and for years to come.

AMERICAN RIVERS,
NORTHERN ROCKIES,
Bozeman, MT, June 7, 2011.

Hon. JEFF BINGAMAN,
Chairman, Senate Energy and Natural Resources Committee, 304 Dirksen Senate Office Building, Washington, DC.

Hon. LISA MURKOWSKI,
Ranking Member, Senate Energy and Natural Resources Committee, 304 Dirksen Senate Office Building, Washington, DC.

Re: Testimony in Support of S. 268

DEAR CHAIRMAN BINGAMAN AND RANKING MEMBER MURKOWSKI: On behalf of American Rivers, I am pleased to offer our written testimony in support of S. 268, the Forest Jobs and Recreation Act of 2011 sponsored by Senator Jon Tester and co-sponsored by Senator Max Baucus. After carefully reviewing this legislation, attending several public meetings on the bill, and visiting all the landscapes it would affect, we believe S. 268 offers substantial benefits for some of western Montana's most storied rivers and streams and the people, fish and wildlife, and communities which depend on them.

American Rivers is the nation's leading river conservation organization, with over 65,000 members from all 50 states—including hundreds of Montanans—who share a commitment to protecting and restoring our nation's rivers for the benefit of people, wildlife and nature. In 2009, we opened a Northern Rockies office in Bozeman in order to play a more active role in protecting and restoring Montana's unparalleled collection of free-flowing rivers and wild trout fisheries.

American Rivers believes S. 268 will result in substantial net benefits for several nationally renowned rivers in western Montana including the Beaverhead, Big Blackfoot, Big Hole, Clark Fork, Jefferson, Madison, Red Rock, Ruby, Swan, Yaak, and Rock Creek. These benefits will come primarily in the form of 666,260 acres of federally designated wilderness at the headwaters of these rivers and an additional 369,500 acres that would be protected as Special Management Areas or National Recreation Areas. We are particularly pleased to see that S.268 includes near-

ly 66,000 acres of new wilderness on BLM lands in the Dillon Resource Area. Moreover, S. 268 would create a new revenue stream for much-needed fish and wildlife habitat restoration projects on the Beaverhead-Deerlodge National Forest and the Three Rivers Ranger District of the Kootenai National Forest.

Congress has not passed any major public lands legislation in Montana for several decades, largely because historically competing interests—particularly conservation groups and the timber industry—have been unable to come to the table and arrive at reasonable compromises that satisfy a broad array of interests. Recent polling clearly shows that S. 268 enjoys support from a strong majority of Montanans of all demographic backgrounds because it is Montana-grown, it protects some of western Montana's best fishing and hunting grounds, and it would create good-paying jobs in the timber industry by encouraging the harvest of beetle-killed timber in already-roaded areas and at the urban-wildland interface.

Normally, American Rivers would be reluctant to support any federal legislation that mandates timber harvest on a specific amount of acreage on public lands. However, after carefully reviewing S. 268, we believe that any adverse impacts from logging would be minimal for the following reasons:

1) The bill orders timber to be harvested on only a very small portion (.2 percent) of the Beaverhead-Deerlodge and Kootenai national forests;

2) Timber harvest would be directed to areas that are already roaded, with an emphasis on the urban-wildland interface;

3) All timber sales would still have to comply with all environmental laws including the National Environmental Policy Act, Clean Water Act, and Endangered Species Act;

4) All landscapes where timber harvest would occur must be left with road densities of less than 1.5 linear miles per square mile in order to provide wildlife security;

5) Revenue generated by these timber sales would be used to pay for fish and wildlife habitat restoration projects on the same forests where they occur.

As it was made clear at the May 25 subcommittee hearing, S. 268 is not supported by everyone in Montana, or in neighboring Idaho. Some special interest groups (e.g. snowmobilers and other motorized users) believe it protects too much land as wilderness, while others believe it does not designate enough wilderness and no public lands bill should ever mandate any amount of timber harvest. American Rivers encourages the Committee to focus on S. 268's bottom line: It protects more than 1 million acres of pristine lands and waters in western Montana as wilderness or other special management areas, while requiring a minimal amount of timber to be harvested in already developed areas, the receipts from which will be used to pay for fish and wildlife habitat restoration projects in those same areas.

For these reasons we strongly and unequivocally support S. 268, and ask the committee to look favorably upon it when it comes to a vote.

Thank you for taking our comments into consideration.

Sincerely,

SCOTT BOSSE,
Director.

STATEMENT OF DAVID DREHER, THE PEW CHARITABLE TRUSTS, ON S. 268

In the mid-1980s the Montana congressional delegation struggled to reach a compromise on forest wilderness in the state. After six years of strife Congress ultimately passed a statewide wilderness bill despite opposition from both ends of the political spectrum. It has been twenty-two years, six months, and sixteen days since President Ronald Reagan responded to some of that opposition by vetoing the legislation. Some of those who supported, and indeed pushed for, that veto now support Senator Tester's Forest Jobs and Recreation Act. It took more than two decades for Montanans to get where they are now—working together to move beyond the divisive debates of the past and craft a common vision for the future—but they have arrived, and they will not go back. I am honored, on behalf of the Pew Environment Group's Campaign for America's Wilderness, to join them in support of this legislation.

Different people support this legislation for different reasons. Some people love that it designates almost 700,000 acres of wilderness, the first such designation for Montana in thirty years. As an organization supportive of wilderness conservation, that is certainly our primary policy interest in the legislation. Other people like that the bill directs the Forest Service to treat the forest and produce wood products. However, in Montana there are many people that do not necessarily care about ei-

ther of those things. What they care about is civil dialogue, people working together to solve problems, sustaining rural jobs, protecting clean water, and conserving and restoring their favorite places to fish and hunt. That is why when this proposal was first rolled out it garnered support from nearly 70 percent of Montanans. There are many things in Montana to disagree about, but people working together to solve problems is not one of them.

The Forest Jobs and Recreation Act is about so much more than wilderness or wood. It is about the people of Montana and the common values they all share.

The wilderness areas that would be protected by Senator Tester's bill are spectacular. From Roderick Mountain in the northwest corner of the state, to the Snowcrest and Centennial Mountains in the south, these areas truly represent some of the best wild places the West has to offer. We should not allow another congress to pass without protecting these majestic landscapes.

Too often with this legislation the wilderness and wood components get the lion's share of attention while the fish and wildlife benefits the bill would provide get overlooked. Groups like Montana Trout Unlimited and Montana Wildlife Federation have been strong supporters of this legislation from the beginning. Sportsmen see the effects of decades of road-building, unfettered motorized use, and indiscriminate logging first hand on the habitats of fish and elk.

The work to reverse these trends and mitigate past impacts takes cooperation and collaboration. It requires conservationists, mill owners, ranchers, and parts of the broader public all coming to the table with the agency to design and implement projects. The Forest Jobs and Recreation Act rewards the collaborative efforts already underway—in the Yaak Valley, with the Blackfoot Challenge, and the Beaverhead-Deerlodge Partnership—and provides a foundation to greatly expand this vital work.

It is not often that people get a second chance like this one. After decades of arguing over natural resource management in Montana, there are special wild places that still need wilderness protection, small towns with people who need jobs in the woods, and an ever-growing need to better manage off-road vehicles. None of these things will be done perfectly, but they will all be done better with the Forest Jobs and Recreation Act and the people behind it.

Senator Tester's Forest Jobs and Recreation Act is an opportunity that we, and the United States Congress, cannot let pass. Thank you for the opportunity to express our support.

NATIONAL PARKS CONSERVATION ASSOCIATION,
YELLOWSTONE FIELD OFFICE,
Bozeman, MT, June 7, 2011.

Dylan Laslovich,
Office of Senator Tester, 724 Hart Senate Office Building, Washington, DC.

DEAR DYLAN, Please accept this letter of support for the Forest Jobs and Recreation Act of 2011, S.268, from the National Parks Conservation Association (NPCA), Yellowstone Field Office.

The Forest Jobs and Recreation Act is good for Montana and good for Yellowstone National Park's wildlife. The legislation takes a comprehensive approach to managing and protecting National Forest and Bureau of Land Management lands in southwestern Montana outside of Yellowstone National Park. These lands, specifically the Snowcrests in Madison County and the Centennial Mountains in Beaverhead County, play a key role in maintaining wildlife connectivity for Yellowstone's wildlife such as grizzly bear. We encourage the inclusion of these two landscapes in final passage of the bill.

Yellowstone National Park's wildlife depend on healthy landscapes outside of the park. By creating wilderness on lands in the Beaverhead Deerlodge National Forest and the Dillon BLM, these landscapes will be permanently protected, ensuring a place for Yellowstone's wildlife to roam now and in the future.

NPCA fully supports Senator Tester and his common-sense endeavor to pass legislation that creates jobs in Montana's forests, protects clean water and safeguards Yellowstone's wildlife habitat for future generations.

Please feel free to contact me with any questions.

Sincerely,

PATRICIA DOWD,
Yellowstone Program Manager.

MONTANA WILDLIFE FEDERATION,
Helena, MT, June 8, 2011.

Hon. JEFF BINGAMAN,
Chair, Senate Energy and Natural Resources Committee, U.S. Senate, Washington, DC.

RE: Montana Wildlife Federation Support for the Forest Jobs and Recreation Act

DEAR CHAIRMAN BINGAMAN, Thank you for the opportunity to submit written testimony supporting S. 268, the Forest Jobs and Recreation Act (FJRA).

The Montana Wildlife Federation (MWF) is Montana's oldest and largest hunter/angler conservation organization with approximately 7500 members and 23 affiliated Rod and Gun Clubs. Formed in 1936, MWF has strongly supported sensible land use policies that enhance and improve wildlife habitat and support increased fair chase hunting and angling opportunities for our members. MWF's heritage of supporting wise management of the forest resource leads us to continue to support Senator Tester's Forest Jobs and Recreation Act.

S. 268 is the culmination of years of hard work by the collaborators who, through an open and honest process, showed that ending gridlock was possible and it was possible to get Montanan's back in to the Forests both to play and work. We commend the Collaborators for their forward thinking approach and Senator Tester for continuing his support of goals and processes that bring all sides to the table to achieve important successes.

For MWF and our members, FJRA means several things. First and foremost, it will result in improved habitat for many species that are important for the future of the hunting and angling heritage that the Montana Wildlife Federation has supported t for 75 years. Of special note, the Act will serve as a vehicle to help both preserve and restore elk security habitat while providing good jobs for our members and their families and freinds.

Secondly, the stewardship requirements to be accomplished along with the logging and other vegetation management activities will help ensure clean water for imperiled aquatic species such as Bull Trout and West Slope Cutthroat. These stewardship acomplishments will also increase available spawning habitat for other wild populations of cold water fish and increase the opportunities for our members to enjoy their angling heritage.

Third, the common sense wilderness additions in the Forest Jobs and Recreation Act will provide protection for future supplies of clean water for fish and important habitat for elk, deer, bighorn sheep and mountain goats. It will also ensure that areas that truly deserve wilderness protection are finally protected and help keep what we have today for tomorrow. MWF has a long history supporting these same kinds of well thought out inclusions in to the Wilderness System. While the final product is often times different than what was started out with, the necessary and critically important dialog and final consensus will benefit Montana's wildlife and to her generations of hunters and anglers.

In conclusion, this is the right bill coming at the right time. This kind of visionary leadership and willingness to work with all sides on contentious matters has been lacking from many important Natural Resource Conservation issues for some time. For these and other reasons MWF strongly supports Senator Tester's Forest Jobs and Recreation Act, and believes that passage of S. 268 will only lead to improved management of our public lands, better support the diverse outdoor recreational activities for our members, while providing the jobs that they so desperately need.

Thank you for the opportunity to comment,

TIM ALDRICH,
President.

STATEMENT OF THE WILDERNESS SOCIETY, ON S. 268

The Wilderness Society (TWS), representing over 500,000 supporters and members, supports S. 268, the "Forest Jobs and Recreation Act" introduced by Montana Senator Jon Tester, and co-sponsored by Senator Max Baucus. Many of the national forest lands addressed in this bill are of national significance and passage of this legislation would benefit Americans from current and future generations. This bill has diverse, bi-partisan support from across Montana and we commend Senator Tester and his staff for their effort and leadership in developing this important bill and tirelessly engaging with Montanans on its provisions. We are committed to working with Senator Tester, the committee, and the administration to address concerns, seek creative solutions and to ensure the final version of this bill is the best possible legislation for Montana and the nation.

TWS strongly supports the provisions of S. 268 that would designate 677,000 acres of wilderness. We also support this bill's twin goals of enhancing ecological restoration on appropriate national forest lands while aiding a struggling timber industry in western Montana. We also respect the diverse, collaborative efforts that developed many of the provisions embodied in this bill. Conservationists, hunters, anglers, timber industry representatives, recreation interests, and many others have engaged in countless meetings over many years in a sincere effort to address forest management conflicts that have remained unresolved for decades while advancing the restoration of degraded forest lands.

Montana's communities, forests, fish and wildlife all deserve a chance to see this bill work. While we have identified some concerns and specific areas for refinement, we want to be clear that we support the bill's overall goals and stand ready to work with Senator Tester, the committee and the administration to ensure this bill can fulfill its promise and become law.

MONTANA'S WILDERNESS CONTEXT

It has been over a decade since any member of Montana's congressional delegation has introduced a bill addressing wilderness in the state and more than 25 years since Congress last passed legislation designating Montana wilderness. The last time a new wilderness area was successfully added in Montana was 1983. Since that time, every other western state has seen areas added to the National Wilderness Preservation System. Today only 4% of Montana's total land base is protected as wilderness—the lowest relative amount of any western state. The percentage of other western states designated as wilderness ranges from 5% for Wyoming and Nevada to 15% and 16% for California and Alaska, respectively.

Thus, while S. 268 is much more than just a wilderness bill, it is nonetheless critically important that this bill addresses a longstanding need and backlog of areas deserving of the protections that wilderness designation brings. Indeed, many of the 677,000 acres designated as wilderness in this bill (whether on the Beaverhead-Deerlodge, Lolo, or Kootenai National Forests or on BLM lands within the Dillon Resource Area) have been formally recommended by the agencies for wilderness protection and are already mostly managed to maintain wilderness values.

S. 268 is also noteworthy because it represents a new approach to addressing disputes over natural resources management and land protection, which have a long and bitter history in Montana. While collaboration is an often overused word, this bill is truly "bottom-up" and represents the product of neighbors and even adversaries sitting down long enough to get to know one another, learning to respect one another, and forging a common vision for the management of our public lands.

Indeed, we are seeing other collaborative efforts involving wilderness designation and forest restoration in Montana and throughout the west. Perhaps most noteworthy in Montana is the "Rocky Mountain Front Heritage Proposal" (www.savethefront.org) for the Forest Service and BLM lands east of the Bob Marshall Wilderness which includes a noxious weed restoration component. Passage of S. 268 will help provide the momentum and model for consideration of other Montana wildlands deserving of protection that have for too long been in a holding pattern.

THE PROMISE OF THE BLACKFOOT CLEARWATER LANDSCAPE STEWARDSHIP PROJECT

While S. 268 addresses three forest landscapes (the Three Rivers District of the Kootenai National Forest, the Beaverhead-Deerlodge National Forest and the Seeley Lake Ranger District of the Lolo National Forest) TWS was only involved in the development of the Blackfoot Clearwater Landscape Stewardship Project (BCSP) on the Lolo's Seeley Lake Ranger District. We believe the BCSP model is a blueprint for success because it promotes pre-NEPA collaboration, ensures adequate funding for forest restoration, and promotes the development of forest biomass infrastructure while respecting the integrity of all existing laws and regulations.

The BCSP proposal recognized that the Blackfoot-Clearwater Valley is a unique ecosystem with significant forest, wildlife and wilderness resources. It was made possible by the culture of cooperative conservation common throughout the Blackfoot-Clearwater Valley and informed by lessons learned from the recently completed Clearwater Stewardship Project. Several years ago residents of the Blackfoot-Clearwater region expressed interest in forest restoration, sustainable logging, ranching, recreation and wilderness uses across the landscape. The BCSP proposal emerged from a three-year dialogue among key stakeholders and it demonstrates that wilderness and wildlife can be protected alongside historic and traditional activities.

As a demonstration project for cooperative public-private stewardship across a landscape area, the original BCSP was intended to facilitate cooperative steward-

ship via Congressional funding for forest restoration and for a biomass cogeneration facility in Seeley Lake, Montana as well as inclusion of recommended tracts within the Bob Marshall-Scapegoat and Mission Mountain wilderness totaling 87,000 acres. The project addressed the 400,000-acre Seeley Ranger District of the Lolo National Forest within the Blackfoot watershed as well as lands within the public-private 41,000-acre Blackfoot Community Conservation Area.

The BCSP vision would maintain traditional wilderness pack trails on the Seeley Lake Ranger District as well as all of the existing groomed snowmobile trails and areas. Groups have agreed to additional snowmobile opportunities in the area between East Spread Mountain and Otatsy Lake. The participating groups agreed to a revision in the proposed Lolo Forest Plan to allow an approximately 2,000 acre "winter motorized use area" in this area. The BCSP identifies a management approach that allows for most active management such as livestock grazing, logging and restoration work in the roaded lands found at lower elevations. All the activities envisioned by the BCSP would be consistent with all existing laws and regulations, including proposed revisions to the Lolo National Forest Management Plan.

The original proposal included a funding request to allow the Forest Service to plan and implement landscape stewardship and restoration projects on 400,000 acres in the Lolo National Forest portion of the Blackfoot-Clearwater watershed. It calls for restoration logging to protect large trees and restore pre-suppression old growth conditions, with the receipts from the logging being used for restoration work on the ground including watershed improvements, road rehabilitation work and weed eradication.

Within the 41,000 acre Blackfoot Community Conservation Area, cooperative management of timber, grazing lands, weeds, hunting and other recreational uses is being planned. BCSP supporters have long believed this proposal represents a new model for landscape-level conservation in Montana. This proposal would help keep historic and traditional activities as part of the landscape, add diversity and sustainability to the local economy with both recreation and forestry jobs, and enhance watersheds and the landscape.

The spirit of the original BCSP proposal is captured in S. 268 in the form of wilderness designations, utilization of stewardship contracting, and support for forest restoration and biomass infrastructure.

TIMBER SUPPLY PREDICTABILITY

The Wilderness Society has concerns over S.268's provision that calls for a mandatory number of acres to be mechanically treated on the Beaverhead and Kootenai National Forests. The Society strongly endorses the overall goals of the bill to provide a more predictable supply of timber to mills, and we have been quite vocal in stating that Montana needs a viable, diverse wood products manufacturing infrastructure to meet our forest restoration and fuel reduction goals. The question is how to best meet the goal of a more predictable supply while achieving restoration goals. We do not support Congressionally mandated treatment levels in the bill as we do not believe they will work on the ground.

While the Blackfoot-Clearwater Stewardship proposal was being crafted we deliberately avoided mandatory mechanical treatment language because we, and our partners, believe strongly that a strategy based on inclusive, diverse, pre-NEPA collaboration, adequate funding and a clear Congressional and agency commitment to ecological restoration will produce far greater positive results on the ground. The BCSP participants, including TWS, made a clear decision to let the landscape analysis dictate what restoration treatments are appropriate. One of the reasons we included a biomass provision in the original proposal was to help create a market for small diameter material that did not have value as commercial saw logs, but were important to remove as part of the restoration strategy. We want to avoid situations where landscape analysis areas are gerrymandered to ensure that a certain number of acres are available for mechanical treatment.

While we were crafting the BCSP proposal, TWS conducted a review of collaborative efforts between conservation and timber interests throughout the West. The collaborative efforts that successfully completed projects had in common strong pre-NEPA collaboration and adequate funding. In examples where mandatory targets were created, they were never met, even in cases where adequate funding was provided.

THE MONTANA FOREST RESTORATION COMMITTEE AND PRINCIPLES

The Wilderness Society is engaged in a number of collaborative forest restoration efforts around the country and we believe that the Montana Forest Restoration Committee (MFRC) offers a promising model that we should consider as we work

together to refine and advance S. 268. The MFRC, founded in early 2007, has developed 13 restoration principles that define a "zone of agreement" regarding the restoration of national forest lands in Montana. The Wilderness Society has played a leadership role in this effort from its inception to the present day and these principles, coupled with pre-NEPA collaboration and consistent agency engagement, have resulted in strong consensus and significant progress regarding the development of on the ground restoration work on the Lolo, Helena and Bitterroot National Forests over the past four years.

We believe strongly that the MFRC principles, highlighted below, coupled with adequate funding and diverse, inclusive, pre-NEPA collaboration at the project level can provide a viable model for forest restoration in Montana, including areas affected by this bill on the Beaverhead-Deerlodge and Kootenai National Forests.

The Montana Forest Restoration Principles (available online at www.montanarestoration.org) address the following:

- Restoring functioning ecosystems by enhancing ecological processes;
- Applying an adaptive management approach;
- Using the appropriate scale of integrated analysis to prioritize and design restoration activities;
- Monitoring ecological restoration outcomes;
- Reestablishing fire as a natural process on the landscape;
- Considering social constraints and seeking public support for reintroducing fire on the landscape;
- Engaging community and interested parties in the restoration process;
- Improving terrestrial and aquatic habitat and connectivity;
- Emphasizing ecosystem goods and services and sustainable land management;
- Integrating restoration with socioeconomic well-being;
- Enhancing education and recreation activities to build support for restoration;
- Protecting and improving overall watershed health, including stream health, soil quality and function and riparian function; and
- Establishing and maintaining a safe road and trail system that is ecologically sustainable.

COMMENTS ON SPECIFIC PROVISIONS OF S. 268

The Wilderness Society appreciates the openness and constructive attitude that Senator Tester and his staff have shown in considering the questions and concerns Montanans from all walks of life have raised regarding S.268. We applaud the Senator and his staff for their proactive efforts to inform groups and individuals about the bill through community presentations, creation of a dedicated section on the Senator's website, meetings with many organizations and local businesses, and other means.

In this vein, many of the issues we raise below have been previously shared with the Senator and we are heartened by his commitment to address them at some level. We share the concerns raised by USDA that certain components of the legislation carry national implications for the management of the National Forest System and should be reviewed and modified by the Senate Committee on Energy and Natural Resources when it reports S. 268 to the U.S. Senate.

Forestry Projects

We support many of the goals of the environmental analysis and administrative review provisions, such as encouraging more comprehensive environmental analysis at a landscape scale, engagement of local multi-stakeholder advisory groups, more efficient NEPA reviews, and the continued implementation of project components that have not been challenged or enjoined. We also support prioritizing forest restoration projects in impaired landscapes, and the application of INFISH guidelines to restoration projects. Further, we support the overall reduction in road density envisioned by the legislation, as well as the limitations on road-building in restoration projects.

Wilderness Areas

It is worth noting that much of the wilderness acreage in S. 268 is not small, isolated, high alpine areas but instead represents diverse and critically important habitat types for both important game populations and rare species. For example, the Snowcrest Wilderness, the largest wilderness area in the bill includes rolling sagebrush foothills, whitebark pine stands, aspen, and alpine grasslands. It offers some of the highest quality wolverine habitat in southwest Montana, with grizzly bears, mountain lion and large elk herds also roaming these remote mountains. Due to the abundance of big game, the Snowcrest Mountains are among the most heavily hunt-

ed areas in Montana. Streams on the eastern side of the Snowcrest Mountains feed the famed Ruby River which is noted for both trout and grayling fisheries. It is also noteworthy that S. 268 includes both BLM and USFS wilderness areas in Southwest Montana with several of them connecting to existing protected areas, as well as supported by contiguous newly designated Recreation Areas in some cases.

Our detailed recommendations regarding wilderness areas follow:

1) Mount Jefferson: While only encompassing 4,500 acres, this proposed wilderness area on the Beaverhead-Deerlodge National Forest near the Idaho state line and adjacent to the BLM's 28,000-acre Centennial Wilderness Study Area (which S. 268 would also designate wilderness) has nationally significant ecological values and has attracted vocal, out-of-state opposition. The Wilderness Society supports the current boundaries in S. 268 for Mount Jefferson. Moving the boundary from the state line, which is also the drainage divide (and the continental divide), would only continue and exacerbate an existing illegal snowmobile trespass problem in the Mount Jefferson recommended wilderness area and into the adjacent BLM's Centennial Wilderness Study Area and also harm existing, locally owned Montana businesses (Hellroaring Ski Adventures and Centennial Outfitters). The Forest Service has documented repeated snowmobile trespass into adjacent lands that would be designated wilderness under S.268. Further, the agency estimates that at most one job in Island Park would be impacted by managing all 4,500 acres of the Montana side of Mount Jefferson for non-motorized recreation. This job loss is more than offset by the gains in employment in Montana's human-powered recreation industry. Thus, we hope to see S. 268 continue to include all 4,500 acres in the Mount Jefferson Wilderness Area.

2) BLM wilderness areas: We support Senator Tester's inclusion in S. 268 of appropriate BLM lands including the 6,200-acre East Fork Blacktail Wilderness. The East Fork Blacktail Wilderness Study Area sits in the heart of a landscape managed for conservation purposes. It is contiguous on two sides with the proposed Snowcrest Wilderness in S. 268 and adjacent to two state Wildlife Management Areas.

3) Lee Metcalf Wilderness addition: For the north unit of this wilderness addition we support the revision that eliminated the non wilderness corridor (Trail #315) that was part of the original legislation. This would have bisected this proposed wilderness addition into two units. This trail corridor was originally added to the bill to accommodate mountain bike use, but it was then determined that the western portion of this trail crosses onto private land with a public use easement that is clearly limited to only foot and horse traffic. Hence it made no practical sense to include this corridor and it was appropriately dropped from S. 268.

4) East Pioneers, West Pioneers, and West Big Hole areas: The Beaverhead-Deerlodge Partnership Agreement negotiated larger wilderness areas for these three areas. Given the wild values and ecological importance of these areas (as well as the fact that the expanded East Pioneers acreage is recommended wilderness by the Forest Service), we suggest reconsideration of S. 268's boundaries for these areas, with expansion of some of them to more closely follow what the Partnership originally proposed.

5) Peet Creek/Price Creek: We recommend that the Peet Creek/Price Creek parcel in the Centennial Mountains be added to the proposed Centennial Mountains Wilderness with a cherry stemmed boundary to accommodate the existing improved logging road in the E. Fork of Peet Creek. This is the largest of the five parcels recommended for release from the BLM Centennial Wilderness Study Area (approximately 3,800 acres). This parcel has significant conservation value for big game, wolverine, bears and westslope cutthroat trout. Its protection as wilderness enhances the Centennial Mountains wildlife linkage area and connectivity between greater Yellowstone and central Idaho.

WILDERNESS MANAGEMENT LANGUAGE

While we are not opposed to continued grazing in the Snowcrest proposed wilderness area, we believe S. 268's language providing for continued motorized access for sheep trailing and maintenance of water impoundments is unnecessary. The Congressional Grazing Guidelines, incorporated in S. 268 at Section 204(i), provide time-tested guidance for the managing agency to effectively balance existing grazing related motorized and mechanized use with the Wilderness Act's management provisions.

ADDITIONAL QUESTIONS AND COMPONENTS FOR REVIEW

The Wilderness Society strongly supports the wilderness designation and forest restoration goals of S. 268 and we respect the diverse collaborative efforts that have worked for years to chart a new path forward. We also agree with Secretary Vilsack, who said in his groundbreaking speech in Seattle in August of 2009, that our shared vision for the national forests begins with restoration.

We also recognize and respect the concerns of our partners in the timber industry regarding the fact that the Forest Service does not have the capacity to address all of the forest restoration needs that exist today and thus the importance of maintaining some timber infrastructure in the state. If we hope to complete these forest restoration needs, we believe we must take the following steps:

- Ensure adequate funding for Forest Service restoration programs in Montana and nationally;
- Sustain a right-sized timber industry infrastructure adequate to carry out much-needed forest restoration activities;
- Protect the integrity of all existing laws and regulation including the National Environmental Policy Act, Endangered Species Act, National Forest Management Act, and others;
- Examine other forest restoration models to ensure the final version of S. 268 is modeled after approaches that have worked on the ground while avoiding the pitfalls of failed attempts at forest management.
- Consider the impact of S. 268's provisions on other collaborative efforts under development or those that could arise in the future, given the growing interest in tackling forest protection, logging, restoration issues outside of the regular national forest planning process and the tendency to incorporate approaches already ratified by Congress.

Finally, as many have noted, the specific components of the Forest Jobs and Recreation Act were not intended to be replicated nationally or to resolve the long-standing calls for review and reform of the many mandates driving national forest management.

CONCLUSION

The Wilderness Society's vision for our National Forests is to maintain and restore healthy and sustainable natural forests that will be resilient in the face of climate change while providing multiple benefits, from recreation to jobs for future generations of Americans. We share Secretary Vilsack's view that forest restoration represents the Forest Service's future. We agree that the Montana Forest Restoration Committee and the Southwestern Crown of the Continent FLRA effort are viable models that deserve further study and support. We believe it is appropriate to continue managing the forests for recreation, timber, livestock forage, and other commodities, but only when doing so is consistent with ecosystem integrity, is economically sound, and benefits from citizen participation. Our experience has shown that conservationists, hunters, anglers and the timber industry can find common ground regarding national forest management. Participants in the MFRC define this common ground as a "zone of agreement" and we believe that operating within this zone of agreement is the most likely path to success.

In conclusion, TWS supports S. 268 and is committed to working with Senator Tester, the committee and the administration to address concerns, seek creative, workable solutions and to ensure the final version of this bill is the best possible legislation for Montana and the nation.

STATEMENT OF MATTHEW KOEHLER, EXECUTIVE DIRECTOR, WILDWEST INSTITUTE, MISSOULA, MT, ON S.268

My name is Matthew Koehler and I'm the executive director of the WildWest Institute, a Montana-based conservation group. Our mission is to protect and restore forests, wildlands, watersheds and wildlife in the northern Rockies. We help craft positive solutions that promote sustainability in our communities through jobs restoring naturally functioning ecosystems and protecting communities from wildfire. We also ensure that the Forest Service follows the law and best science when managing our public forests by fully participating in the public decision process and through on-the-ground monitoring.

SUMMARY OF S. 268

S.268 affects over 3 million acres of National Forest System and Bureau of Land Management lands in Montana and contains a nearly bewildering list of new definitions, designations, management practices, required studies, reports and publications. Approximately 680,000 acres are designated as new Wilderness Areas, another 336,000 acres as National Recreation Areas, Protection Areas, Recreation Areas, and Special Management Areas, each with their own management language. Nearly 3 million acres are designated as Stewardship Areas where logging is expressly allowed and encouraged. It mandates that at least 100,000 acres of the Beaverhead-Deerlodge National Forest and the Three Rivers District of the Kootenai National Forest be logged within 15 years as well as an undetermined amount on the Seeley Lake District of the Lolo National Forest.

The findings, purposes and subsequent sections of S.268 clearly define it as a bill whose primary purpose is promotion of commercial logging through localized management of National Forest System lands. Touted as a bill that is good for the environment, S.268 would accomplish several conservation goals, including the designation of new wilderness areas and headwaters protection for several streams important to native fish.

S.268 does contain admirable language for restoration of fish, wildlife and watersheds, and there is a potential to lower road density in some watersheds. However, these restoration goals are optional, unlike the mandated logging, and S.268 effectively jeopardizes these goals through its action provisions and the methods dictated.

The various sections of the bill have been carefully constructed to affect a desired outcome that would be difficult to challenge through citizen appeals or litigation. For example, Sec. 2(a)(2)(A) "encourages the economic, social, and ecological sustainability of the region and nearby communities." Sec. 2(a)(2)(B) "promotes collaboration," 2(b)(2) declares a major purpose "to reduce gridlock and promote local cooperation and collaboration in the management of forest land." It does this through use of "advisory committees" or "local collaborative groups." Again, this seeks the localization, through private interests, of National Forest System lands. 2(b)(3) states a purpose is enhancement of forest diversity and production of wood fiber to accomplish habitat restoration and generation of a more predictable flow of wood products for local communities. This purpose is later matched with the definitions of the bill to establish commercial logging as the primary means of fish and wildlife habitat restoration. For example, one of the definitions S.268 uses for restoration is "maintaining the infrastructure of wood products manufacturing facilities."

S.268 is not a budget-neutral bill. It authorizes practically unlimited expenditures from the U.S. Treasury and other sources, and empowers "Resource Advisory Committees" or "Local Collaboration Groups" to spend federal funds, including on private, non-National Forest System lands. This provision and others in S.268 give the "Resource Advisory Committees" or "Local Collaboration Groups" sweeping powers that could effectively, if not officially, usurp management and budgetary authority from the Forest Service and grant it to private interests. Professional staff from the Forest Service will be replaced with citizen committees whose members are mandated to include industry groups. S.268 also authorizes the Secretary of Agriculture to expend taxpayer funds for Fiscal Year 2010 to pay a federal share in construction of "combined heat and power biomass systems that can use materials made available from the landscape-scale restoration projects."

The different funding provisions of the bill raise a real potential for other National Forests and Forest regions to have their funds transferred to projects under S.268. Pitting one forest against another for funding is unhealthy and does not promote a wholistic, ecosystem approach to public lands management in the Northern Rockies.

It is important to note that in legislation there is specific legal meaning to terms such as "shall" versus "may" or "can." The word "shall" has the force of law, once a bill is enacted and signed into law by the President. Thus, when S.268 states the Secretary "shall generate revenue," "shall maintain the infrastructure of woods products manufacturing facilities that provide economic stability to communities in close proximity to the aggregate parcel (timber harvest unit) and to produce commercial wood products," it means just that. It will be the law that the Secretary must keep specific, private timber mills open and fed with timber from public lands, at least through the term of authority, if not indefinitely. This is not only an open-ended subsidy, it interferes with free enterprise.

Ultimately, where there is a question of ambiguity, Courts will review a bill's purposes and its legislative history to divine Congress' intent. When purposes conflict, the overall goals of the bill will prevail. When wilderness and ecological restoration

are consistently listed last, as they are in S.268, a Court can be expected to conclude the logging provisions take precedence.

In summary, the S.268 is a significant departure from traditional wilderness bills. It contains several major precedent-setting provisions potentially detrimental to national public lands management that may be repeated in future bills. These include:

1) Localizing of National Forest management by private, local entities for private profit. Other members of Congress may seek to exploit similar special management for national public lands in their states. This could represent the fragmentation of National Forest system management and regulations to a serious degree and ignores the basic principle that national public lands belong to all Americans, not just those in nearby local communities.

2) Mandated logging of National Forest land is an unscientific override of current forest planning by professional Forest Service staff. The logging mandates greatly exceed the average levels since the 1950s on the Beaverhead-Deerlodge and are an unbelievable 14 times the sustainable level recently calculated by the Forest Service. The mandated logging area includes the Three Rivers District of the Kootenai National Forest, where the endangered grizzly bear population is nearly extinct due to very heavy logging and roadbuilding.

3) Numerous unfunded mandates and blank check spending authority for the Secretary of Agriculture and Secretary of the Interior. Gives "Resource Advisory Committees" or "Local Collaboration Groups" spending authority and allows funds to be drawn from other forests and Forest Service regions to implement S.268, pitting forests against another for funding. This creates hard feelings and mistrust rather than cooperation. Authorizes the Secretary to build heat and power generating facilities, a new expansion of authority. Mandates numerous studies, reports, plans and publications, and numerous 10 year contracts, competing with other forests in the region for staff time, printing and distribution. Dedicating staff to the numerous reports and planning removes them from other management duties.

4) Contains several provisions that abrogate the Wilderness Act by allowing non conforming uses including motorized access, and other intrusions.

5) Releases numerous Wilderness Study Areas protected by law under S. 393, sponsored by the late Senator Lee Metcalf (D-MT), and releases BLM-administered Wilderness Study Areas that have been protected for more than 30 years.

Thank you for the opportunity to submit this written testimony. If you have any questions, feel free to contact me at Koehler@wildrockies.org or 406-396-0321.

STATEMENT OF DENISE BOGGS, EXECUTIVE DIRECTOR, CONSERVATION CONGRESS, LIVINGSTON, MT

We are adamantly opposed to Senator Tester's Forest Jobs and Recreation Act. It sets a terrible precedent that mandates logging directed by Congress rather than by the Forest Service. If this bill passes other states will likely follow and the Forest Service will no longer have any authority over public lands. The role of Congress is not to manage public lands. In addition, as someone who personally supported Senator Tester I am dismayed at how dishonest he has been regarding the development of this bill. The process was exclusionary; was not open or transparent; and the majority of the public knew nothing about it until it was finished. Senator Tester has been terrible on the environment and when he can't get what he wants he attaches riders. I suspect he will do the same with FJRA. Mr. Tester is attempting to appease rural voters who didn't support him and never well, while going back on his word to those of us who did support him. Regardless, FJRA is a bad bill and it should never see the light of day. I hope we can count on the Committee to make certain it does not pass.

STATEMENT OF ARLENE MONTGOMERY, PROGRAM DIRECTOR, FRIENDS OF THE WILD SWAN, SWAN LAKE, MT

Please accept into the hearing record the following comments on Senate Bill S268, the "Forest Jobs and Recreation Act of 2011" introduced by Senator Jon Tester. Friends of the Wild Swan is a non-profit environmental organization that has been involved in state and federal projects and policy issues dealing with the protection and restoration of Montana's aquatic and terrestrial ecosystems for over 24 years. We have serious concerns about S268 and the impacts this bill will have on the management of federal lands.

S268 mandates logging on the Beaverhead-Deerlodge and Kootenai National Forests at unsustainable levels. While the bill says that the Healthy Forests Restoration Act will be followed it is counterintuitive to mandate logging before an environmental analysis has been completed. These forests are home to threatened and endangered species such as grizzly bear, Canada lynx and bull trout as well as sensitive species such as wolverine, northern goshawk and westslope cutthroat trout. This bill puts the habitat needs of these species behind logging and road building and facilitates the spread of noxious weeds.

Under the Endangered Species Act federal land management agencies are charged with recovering threatened and endangered species. The National Forest Management Act directs National Forests to develop Forest Plans based on multiple factors including the needs of ESA listed species and protecting water quality. By mandating a set acreage to be logged this bill sets aside our bedrock environmental laws.

The "wilderness" proposed by S268 would be fragmented and unconnected islands of largely "rocks and ice," with no biological integrity and no potential for sustaining biodiversity. The minimal "wilderness" designated would fail to protect different elevation habitats and their dependent species with core areas, buffer zones, and connecting biological corridors. The bill authorizes numerous actions that are clearly incompatible with the 1964 Wilderness Act, including motorized access into and through "wilderness," military aircraft landings, possible "wilderness" logging, and other intrusive violations.

Management decisions on the National Forests affected by this bill will be weighted heavily to local collaborative interests. The bill ignores the fact that these public lands belong to ALL Americans, not just those who live near them.

S268 will cost taxpayers by subsidizing "below-cost" timber sales and biomass power plants. This "logging bonus" for a few timber companies near the three National Forests will deny other federal lands the financial resources for needed restoration activities.

The bill ignores the financial realities that the United States is still in an economic downturn and a lumber "depression." Demand for timber and new home construction continues in a downward spiral. Putting more timber on the market when there is no demand will further depress prices placing more of a financial burden on taxpayers. The United States government is deep in debt and cannot afford to subsidize the timber industry at the expense of social security and medicare. This bill increases spending by mandating below cost timber sales.

S268 specifically eliminates from mandated protection large portions of the late Senator Lee Metcalf's wildlands legacy. Congressionally-designated Wilderness Study Areas will be opened up for roading, logging, and other development without any assessment of their habitat values for wildlife. Roadless wildlands are scarce and once developed their wild character is irretrievably lost.

Friends of the Wild Swan supports wilderness that fully complies with the Wilderness Act and our country's environmental laws. We believe that protecting biological diversity in the Northern Rockies is paramount to recovering imperiled species and leaving a wildlands legacy for future generations. S268 undermines our environmental laws and fragments our precious wildlands. Please vote against this shortsighted and damaging legislation. Thank you for considering our comments.

STATEMENT OF RICK R. SANDRU, PRESIDENT, RUBY VALLEY STOCK ASSOCIATION, TWIN BRIDGES, MT

As President of the Ruby Valley Stock Association (RVSA) located in Madison County Montana, I feel obligated to convey to this Committee our opposition to S.268. RVSA does not believe additional wilderness is needed or warranted and certainly do not feel our grazing interests are protected in the scant verbiage pertaining to grazing that is included in this bill.

RVSA is deeply concerned that if this bill passes as written extreme environmental groups will sue to have cattle removed from grazing in wilderness or severely restrict our management abilities. We have no confidence in the "strong language" in the bill to protect our right to graze. Let me remind you about strong language in legislation ten years ago that called for thirty breeding pair or 300 wolves mainly confined to Yellowstone Park and if livestock predation occurred wolves would be dealt with swiftly. Extremist groups have this in court continually. We now have 2000 wolves or more and they still don't have enough. Another example is the Missouri River Breaks National Monument. Environmental groups are suing over original management plans to remove cattle grazing and access rights previously agreed to. Another case in the Gallatin Forest created a wilderness area and

snowmobiling was recognized as an historical use of the area. A district judge recently sided with environmental groups denying access to snowmobiles. Wilderness designation just gives these extremist groups a leg up in their quest to eliminate man from the landscape. We cannot give them that advantage.

RVSA believes that most people, including this committee, don't realize what is at stake here or that the lands proposed for wilderness do not even fit the definition of wilderness. RVSA is sickened that the people of southwest Montana that make a living and recreate on these lands are being sold out for Senator Tester's political paybacks.

Eight Ruby Valley ranching families comprise the RVSA, a closely knit group of progressive stockmen that graze some of the finest commercial cattle in the U.S. on the Upper Ruby Three Forks Allotment. The proposed Snowcrest Wilderness would encompass half our grazing allotment. We sternly reject the argument that these proposed wilderness areas will protect watersheds or expand recreational activities. RVSA is proud of its many accomplishments on the Three Forks Allotment that do protect the resources. With the Forest Service, the RVSA has implemented a very successful rest rotation grazing system that ensures a healthy plant community and succulent fed for livestock and wildlife, a massive water distribution system to disburse cattle away from creeks and allow utilization of upland grasses, documented improved riparian function and stream bank improvement, increased aspen regeneration multi-agency hardened crossing and corral relocation project to further reduce sediment in the Ruby River, voluntary trailing guidelines, voluntarily agreed to embrace Fish Wildlife & Parks reintroduction of Arctic Grayling to the Ruby River. This is the only successful reintroduction effort to date. Grayling need extremely cold and clean water to thrive. I ask you, how can designating wilderness, basically no management, improve on this record of exemplary management.

The proposed Snowcrest Wilderness will include 20 of our water tanks, miles of pipeline, roughly 25 miles of seasonal roads used by the public for hunting, wood gathering, camping or sightseeing and the permittees to maintain this costly and critical infrastructure. Miles of fence also needs constant repair and occasional replacement. Salt and mineral needs to be scattered to distribute the cattle evenly and to avoid death losses from larkspur poisoning. 250 pound protein tubs are used to draw cattle to underutilized areas or in dry years to pull the cows off the creeks to the uplands.

RVSA believes they provide a bargain to the American public by the outstanding stewardship they provide both on the Three Forks allotment and their deeded or "base" properties that lie in the Alder to Twin Bridges area. Driving through this beautiful mountain valley it is apparent the vast majority of open space is directly tied to summer grazing in the Upper Ruby. It is imperative for the survival of our ranching heritage in this valley that summer grazing in the Upper Ruby is not jeopardized.

The public's loss of recreational access due to road closures would be substantial, but would pale in comparison to the amount of recreational opportunities on the base properties in the Ruby Valley that could potentially be lost. If summer grazing is curtailed or disallowed, these base properties would likely be sold or subdivided. Net result—less open space—less recreational opportunities—less wildlife.

Senator Tester's Jobs and Recreation Act is not a jobs or recreation bill but a poorly disguised wilderness bill that was crafted around the partnership plan promoted by Sun Mountain Lumber, Montana Wilderness Association, Trout Unlimited, National Wildlife Federation, and a couple other lumber companies. Senator Tester ignored input from the Madison/Beaverhead County Commissioners, ranchers, and local outdoors associations. The counties that will bear the burden of additional wilderness were totally left out of the process.

Roughly 600,000 acres in the Beaverhead/DeerLodge National Forest are proposed wilderness. These areas are now managed for multiple use so all Americans can enjoy and recreate on them and benefit from the natural resources that they may provide. If they become wilderness, 97% of the American public will not recreate and 100% of the American public will not realize any benefit from natural resources harvested from these lands.

This bill calls for treating 7,000 acres per year for ten years for a total of 70,000 acres. Treating could be selective thinning, urban fire hazard reduction, road reclamation or prescribed burns. It does not mean merchantable timber will be harvested. I see no benefit to the timber industry.

Stewardship contracting is mentioned by Tester as a dazzling new way of doing business. In fact, stewardship contracting is a tool that has been available to the forest service for years, but not often used. To have a successful stewardship project you have to be working with a product of high value. Timber prices are so low that after the administration of a timber sale there is rarely money left over for steward-

ship projects. The jobs portion of this bill could expire before profitability returns to the timber industry.

The largest obstacle to managing our Forest Service lands is the endless litigation by extremist groups and judges with an agenda. No Senator Tester, I don't believe a judge will care if this is an act of Congress. Montana has 15 wilderness areas comprising 3.4 million acres, do we need more? To manage for healthy forests, the laws must be changed so extreme groups cannot delay or dismantle management activities in court. Second, they must not be reimbursed for legal expenses. Third, we must get back to managing forests for multiple use. Locking more land up as wilderness, effectively no management, is exactly the wrong way to be headed.

STATEMENT OF SCOTT BUNGE, STEVENSVILLE, MT, ON S. 268

Four generations of my family have called Montana home and we've all hunted, fished, recreated and enjoyed her enormous beauty. For several of us, our livelihood was derived from the land and natural resources. We love this place. We don't want to see Montana's land, water, or air destroyed but our right to access public lands and its resources must be protected.

In proposing S268, Senator Tester may be attempting to balance protection, access, and economic benefit. It might be well intentioned but we believe creating more wilderness and tighter federal control is not the answer. With the federal government's obvious propensity to manage-by-closure, common sense tells us that this law would probably not result in enhanced access or economic benefit. History and common sense tells us this law would simply result in another closure.

Further, there appears to be several legal issues with S268 making the law unconstitutional as well as unwise. The attached document may be of interest.

In spite of Senator Tester's claim, S268 does not provide the management most Montanan's want. It is certainly not the approach our family or friends want.

Thank you for your time.

STATEMENT OF PATTI L. ROWLAND, REPRESENTING BEAVERHEAD WATER COMPANY, ON S. 268

Please accept this letter as a comment to the Forest Jobs, and Recreation Act of 2011 S268, on behalf of the Beaverhead Water Company (hereinafter "BHWC"). The BHWC, by and through the West Bench Irrigation District, provide over 6,000 acres of land with water for irrigation. The sources of water for irrigation are generally Birch Creek, Willow Creek, and their tributaries with the various associated reservoirs located in the East Pioneers. BHWC is opposed to designation of the East Pioneers Wilderness Area included in S268.

The water language eventually included in S. 1470 was an attempt to alleviate the concerns that BHWC had with a wilderness designation in the East Pioneers. Although the language did not go far enough to protect the historic rights of BHWC to access, inspect, operate, maintain, repair and upgrade its water storage and water conveyance systems, the language did provide some protections to the existing uses of BHWC. The discretionary provisions in Section 204(1) of S268, provide less than a minimum of protection needed by BHWC for its water use, storage, and conveyance system; use which existed prior to the Forest Service in this area.

S268 as written does not recognize existing State water rights, water use, or the easements applicable to that use. Instead S268 puts State based water right authority and access under the discretion of a line officer. The 1964 Wilderness Act clearly states there are no exemptions in the Act to exempt the Federal Government from State water laws.

Apparently, the language now included in S268 is similar to language in Idaho legislation. This language is not workable for Montana, generally, and is not an acceptable situation for the BHWC as it severely limits the existing and historic use of BHWC. BHWC would strongly urge inclusion of the following specific language to S268 or any other bill which designates wilderness:

> Nothing in this act shall be construed as affecting or limiting in any manner Montana's authority or jurisdiction over water resources. Congress expressly recognizes and confirms that nothing in this act shall be construed to limit any water rights arising under Montana law, or to affect the jurisdiction of the state of Montana to allocate water resources associated within any area designated under this act.
>
> Nothing in this act shall affect in any manner the right to use quantities of water under water rights arising under or protected by state law. Such

protection shall include the right to divert and use water for beneficial use under state law, or otherwise use water for beneficial purposes as determined under state law. Such protection extends to rights to use water existing on [effective date] and to those rights granted or authorized by th e state under state law arising after [effective date]. Such protection extends to the right to use, maintain, construct, repair, and upgrade existing ditches, head gates, conveyance systems of any type, dams, reservoirs, and the ability to ingress, egress, and utilize motorized means for these purposes is expressly protected and recognized.

Nothing in this act shall affect, preclude, or limit in any manner construction and use of new water storage facilities or access to same.

Beaverhead Water Company stores and utilizes water from Boot Lake, May Lake, Chain Lake, Tub Lake, Pear Lake, Anchor Lake, Bond Lake, and Deerhead Lake. In addition, BHWC has water rights from Bond Creek, Birch Creek, and Willow Creek which are utilized for irrigation purposes. These are headwaters that need protected from the devastation that fire in a wilderness area could create. Removal of dead and diseased timber from this area should be a priority.

S268 also ignores historic use by BHWC of motorized vehicles for ingress and egress to its reservoirs and conveyance systems and makes this use discretionary. BHWC must have access to its impoundments and conveyance structure by motorized vehicle in the future. If BHWC is not able to adequately maintain the safe operation of all of its structures because the area is designated and managed as wilderness, someone other than BHWC must accept the liability associated with not being able to maintain the safe operation of the dams and reservoirs. BHWC should not be required to get a permit for access and access should not be limited to non-motorized use.

Finally, I express concern that there has been no public input or local community input on this bill. Now the hearing is being held out of the public view and without outside testimony. This action lacks openness and transparency. We do, however, thank you for consideration of these written comments.

STATEMENT OF CITIZENS FOR BALANCED USE

Citizens for Balanced Use completed a legal review of S268 and has found that it violates the following laws and our U.S. Constitution.

National Environmental Policy Act
National Forest Management Act
Multiple Use Sustained Yield Act
Endangered Species Act
Clean Water Act
Clean Air Act
Data Quality Act
Council on Environmental Quality regulations
Administrative Procedure Act
Federal Advisory Committee Act
Separation of Powers requirements of the U.S. Constitution
Fifth Amendment to the U.S Constitution
Tenth Amendment to the U.S. Constitution

LEGAL DEFECTS IN S268

The Bill surreptitiously alters the Coordination requirements of the Forest Management Act and the National Environmental Policy Act.

To the detriment of every county, city, and local district of government in Montana, this Bill provides the federal agencies with a means to evade and avoid the requirements in the Forest Management Act and the National Environmental Policy Act that the agencies "coordinate" with local government.

A. The National Forest Management Act

The National Forest Management Act mandates that the Secretary of Agriculture "Shall develop, maintain, and, as appropriate, revise land and resource management plans for units of the National Forest System, coordinated with the land and resource management planning processes of State and local governments and other Federal agencies." To local governments this mandated coordination is critical. In 1982, the first rules issued by the Secretary of Agriculture after the statutory mandate was created, the Secretary directed Forest Service line officers to assure that

forest service personnel "coordinate" federal planning efforts with local governments. 36 C.F.R. Section 219.7 provides:

> "The responsible line officer shall coordinate regional and Forest planning with the equivalent and related planning efforts Of other Federal agencies, State and local governments and the Indian tribes."

The Secretary then defines what he means by "coordinate" by requiring the following actions:

1. give early notice of preparation of federal plan;
2. review plans and policies of local government, the review to include:

a. consider objectives of local government
b. assess interrelation of impacts between local and federal plans and policies
c. determine how Forest should deal with the impacts
d. consider alternatives for resolution of conflicts between local policies and federal
e. meet with local government at beginning of planning to develop protocol for coordination
f. seek input from locals to resolve conflicts
g. monitoring and evaluation to consider impacts

This level of coordination is critical to local governments which are responsible for the economic stability of public health and safety of its constituents.

Senator Tester's Bill provides an escape mechanism for the Forest line officers by requiring in section 103(c) that as to stewardship and restoration projects, the Secretary shall coordinate with "applicable advisory committees or local collaborative groups". There is no mention in S 268 of the duty to coordinate with local government.

So, does this amount to a repeal of the National Forest Management Act's requirement of coordination? The answer to the question is debatable. It is a valid argument to say that under S 268 the Secretary does not have to coordinate with local government as to any " restoration projects" because S 268 specifically requires "collaboration and consultation" only with non-governmental committees. Even those who would argue that S 268 does not strictly repeal the coordination requirements of the Forest Management Act, must admit that it provides "weasel room" for line officers to evade and avoid the coordination requirements. The impact of this provision of S 268 strikes at the very heart of the protection to local government for which counties and special interest government districts have worked so hard for the past twenty years. Through coordination, local government has been able to hold the agencies at bay when trying to put down local ranchers and recreation users.

Whether intentionally, or accidentally, S 268 strikes a potentially deadly blow to every local government associated with the national forests subject to this Bill.

B. National Environmental Policy Act

Senator Tester's S 268 has the same impact on NEPA which provides that "it is the continuing responsibility of the Federal Government to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources..."

In bringing about this coordination, all federal agencies are directed to cooperate with local government. 42 USC Section 4331 (a) and (b).

S 268 either specifically amends NEPA as to "restoration projects" in the wilderness areas designated by the bill, or provides the evasive path for forest personnel to ignore and avoid the coordination requirements.

Intentionally and maliciously, or unintentionally and ineptly, the impact of S 268 is the same: the language of Section 103 (c) will undo years of progress made by local governments to get the Forest Service to the table on an equal discussion basis.

Senator Tester's Wilderness Bill, S. 268 Removes Management Discretion Given to the Secretary by the National Forest Management Act

The National Forest Management Act of 1976 and its predecessor acts endow the Secretary of Agriculture with a vast amount of discretion to plan for and administer the forests for the public good. The Act provides that the Secretary shall take into account the newest and highest quality information regarding management of the Forests. It also provides that he will take input and advice from local government, state government and all members of the public. There is no provision of the Act that provides for the Secretary to just arbitrarily apply a particular management technique to the exclusion of alternatives.

The provisions of the National Environmental Policy Act, of course, provide that the Secretary will seek public input under NEPA before adapting and applying a technique to the exclusion of others. In making his decisions, he must take into consideration all management acts relating to the forests, the Endangered Species Act, the Clean Water and Clean Air Act and the Data Quality Act.

But, S. 268 just arbitrarily dictates to the Secretary that he WILL apply each standard "described in the inland native fish strategy relating to the conservation and management of riparian habitat" to each restoration project. Section 104 (b) (1) (A & B). There is no exception. It is a mandate, no matter what the Secretary might find that would negate the usefulness of the standards.

Thus, the Senator, with limited input, in a bill written behind closed doors and with input from a very select group of special interests, has mandated the application of native fish strategy REGARDLESS OF THE CONDITIONS AND CIRCUMSTANCES PRESENT WHEN THE PROJECT IS PLANNED——AND REGARDLESS OF THE DETERMINATION OF BEST AVAILABLE SCIENCE—-AND REGARDLESS OF PUBLIC INPUT.

This provision is not only contrary to the discretion granted by the National Forest Management Act, it violates the National Environmental Policy Act by evasion, and it violates the Separation of Powers requirements of the United States Constitution.

As to the latter point, Congress is indeed the manager of the federal lands including the forests. The Constitution so provides. But, Congress can delegate, and has delegated, to the executive branch the authority to manage the forests and other federal lands. That having been done, Congress has no authority, under the separation of powers, to meddle in the authority it has granted. Congress, no doubt, could reclaim the authority it delegated. But, it cannot have it both ways. It cannot delegate management authority, and then meddle by requiring the managers to apply an arbitrary rule that negates the general authority granted.

By requiring that the native fish strategy be applied, without question and without regard to the circumstances, Congress would also be taking away from local government access to management techniques through coordination.

C. Senator Tester's Wilderness Bill denies due process of law by allowing parties otherwise not having standing to become parties to appeals and litigation

Section 103 (d) provides for the current court process for "Administrative Review" which is in place today. Anti access and management organizations will continue to litigate timber projects. All proposed stewardship contacts in S 268 will most likely continue to be challenged in court.

S 268 also bestows standing on committee and organization members who might have no standing at all. The Bill thus changes the process that is available to adversely effected persons through the Administrative Procedure Act and through the appellate rules of the Service.

Due process of law guarantees to all citizens the protection of statutory processes which have been established. Under the Administrative Procedure Act, and under Administrative rules issued by the Secretary, an appellant is entitled to a process uniquely styled to his/her facts, and open to only those who have been previously identified as having standing. This Bill provides standing to the world, regardless of the issue and regardless of adverse impact.

D. Senator Tester's Wilderness Bill severely limits the full impact of the National Environmental Policy Act

The Bill grants exclusive input to the special interest groups who have helped the Senator to draft this Bill behind closed doors, without public meetings or public hearings, without input from or coordination with either the State or local government. This provision violates the provisions of NEPA, the process established by Council on Environmental Quality regulations, the coordination requirements of the Forest regulations and National Forest Management Act, and the requirements of the Federal Advisory Committee Act by allowing select special interest groups to exert undue influence on the agency.

Subsection 103 (c) (1,2 & 3) further compounds the violation by MANDATING that the Secretary "consult with advisory committees or local collaborative groups" before any environmental analysis is conducted to reduce conflict and expedite project implementation. This provision also cuts out the entire rest of the public from any meaningful input to and on the environmental issues and concerns related to the project.

E. Senator Tester's Wilderness Bill violates the Fifth Amendment to the United States Constitution

Section 204 (c), (d), (f), (i), (l) (m) violates the Fifth Amendment to the United States Constitution by restricting private property in such a way as to interfere with investment backed expectations. The measuring test established by Penn Central Transportation Company v. City of New York, provides that a taking can occur when an investment backed expectation of a property owner is taken or so severely restricted as to constitute a taking.

This Section places the use of private property totally in the discretion of a line officer of the Forest Service—one of the least qualified protectors of property interests in the world. It does not provide for exclusion of private property from wilderness designations, and it does not provide for payment for private property surrounded as an in holding by the wilderness designation. Rather, it provides that the Secretary shall provide "adequate access to the private property to ensure the reasonable use and enjoyment of the property by the owner."

The term "adequate" leaves it totally to the discretion of a line officer as to what type of access to permit. It provides no basis for the owner to have any input into the determination of "adequate" access; it provides no arbiter for determining whether the access allowed is truly "adequate". it leaves it to a bureaucrat to determine adequacy, and to determine when to change any definition of access. It also leaves it to a line officer bureaucrat to determine what is "reasonable use and enjoyment" of the owner's property.

Specifically in Section 204 (l), the Secretary or appointed line officer determines whether to allow existing water rights to be delivered to right holder. Line officer also determines whether existing water impoundment and storage structures will be allowed to remain in place or continue to be used by water right holder. No longer would a property owner have a valid Montana State water right but this right would be under the discretion of the line officer. The 1964 Wilderness Act clearly states there are no exemptions in the Act to exempt the Federal Government from State water laws.

1964 WILDERNESS ACT

Sec 1133 use of wilderness areas (d)(6) State water laws exemption "Nothing in this chapter shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from State water laws".

Portions of Section 204 takes from the owner that element of control of his property which would assure protection of his investment backed expectation, and which would assure him any practical use of his property. The section is a move by Congress to "take" control of an owner's property, put it in the hands of a bureaucrat and make no compensation to the owner.

This Bill in no way is comparable to the method of designating wilderness in the Owyhee Public Lands Management Act passed in 2009. In that bill, no private land was included in wilderness except on a voluntary basis, with the owner agreeing to inclusion or, in the alternative, receiving compensation for his property.

The spirit, and letter of the Fifth Amendment is violated by the provisions of this section. It allows for a taking without compensation of any type. It allows for that taking without even allowing a basis for the owner to file a takings claim. The jurisdictional basis for establishing a taking will always be held in abeyance by the Forest Service's line officers through simple manipulation of access.

In providing a basis for depriving an owner of virtually all practical use of his property, without establishing the base line for a taking claim, the Bill deprives an owner of private property of due process of law. The owner can seek, and should seek, compensation pursuant to the Monterey Dunes Case in which the U.S. Supreme Court allowed a land owner to sue for damages in a jury trial.

This is a blatant attack on the property rights of owners of private property engulfed by wilderness decided on by select special interest groups working with the Senator behind closed doors, outside the public scrutiny.

F. Senator Tester's Wilderness Bill Evades the National Environmental Policy Act and the Coordination Requirements of the National Forest Management Act by Establishing Special Use Areas in Sections 205-210

The Bill establishes special protective areas and recreation areas in section 207 without any public input, meaningful or otherwise, in violation of the National Environmental Policy Act.

Only a very select group of forest users were allowed to participate in the drafting of this Bill. Neither the groups involved in the drafting, nor the Senator himself,

will attend public meetings to discuss the contents of the Bill and answer questions regarding its drafting and its purposes.

The policy which Congress itself established in the National Environmental Policy Act has been violated by this Bill. In NEPA, Congress declared it to be in the national interest to involve the public through meaningful participation in reviewing and analyzing proposals for land use projects. This Bill evades that policy completely by arbitrarily designating special interest areas, the boundaries thereof, and the rules for administration thereof.

Senator Tester, his staff, and his self appointed and designated drafting organizations have refused to meet with multiple use organizations, grazing organizations and all but a very limited representation of timber and logging interests to even discuss the contents of this Bill.

Public claims that this Bill is supported by and was drafted by a great cross section of users of the forest lands are simply not accurate. Local governments impacted by the special area designations have been ignored and kept outside the circle of drafters. Montana elected officials including commissioners, mayors, representatives and senators have been ignored and kept outside the circle of drafters. This is a special interest bill, designed to cater to and serve the whims of a very select group of organizations.

Not only is the lawful policy of the National Environmental Policy Act violated by the Bill, so is the statutory mandate that land use decisions affecting local government be coordinated with those units of local government. The counties and cities adversely impacted by the Bill's designations and land use restrictions have been ignored in the drafting of the Bill.

In short, this Bill represents a statement that Congress can ignore policy and law which it has created. This Bill puts Congress itself above the executive department and above the people of the United States by violating statutes that bind the public, that bind local governments, that bind private business.

G. Senator Tester's Wilderness Bill, S. 1470 violates the Tenth Amendment to the United States Constitution By Restricting Access of Public Safety and Health Emergency Services through Memoranda of Understanding

The tenth Amendment to the United States Constitution guarantees to local jurisdictions the authority to exercise the police powers related to public safety and health, without restriction by the federal government. There is no provision in the Constitution which allows the federal government, Congress or otherwise, to restrict access of law enforcement authorities to carry out their duties to protect the public health and safety.

For Congress to assert an authority to restrict access by the terms of this wilderness bill is a clear violation of the Tenth Amendment. The Congress oversteps its constitutional bounds by ignoring local authorities in making sweeping land use designations which may hamper provision of local police services to the citizens of a state. S 268 makes no mention or grants no authority to local governments to provide access for health and safety.

H. S 268 violates the 1964 Wilderness Act

Sec. 1133. (d)(2) " Use of wilderness areas such areas shall be surveyed on a planned, recurring basis consistent with the concept of wilderness preservation by the United States Geological Survey and the United States Bureau of Mines to determine the mineral values, if any, that may be present; and the results of such surveys shall be made available to the public and submitted to the President and Congress."

Congress clearly intended for all mineral resources to me inventoried and mapped prior to these lands inclusion into the wilderness preservation system. Senator tester has repeatedly refused to comply with this requirement under the 1964 Wilderness Act.

Professor Robin McCullogh from the Butte School of Mines is quoted as saying "to lock away land in wilderness before identifying the location of mineral reserves present is like cutting off your nose despite your face."

The areas of the Beaverhead Deerlodge National Forest targeted by Senator Tester for wilderness designations are known to be the most mineral rich lands in the United States. Designation of wilderness which would remove availability of these resources from the citizens of the United States today and for future generations would pose a threat to our national security.

STATE OF ALASKA,
OFFICE OF THE GOVERNOR,
Juneau, AK, May 24, 2011.

Hon. RON WYDEN,
Chairman, Subcommittee on Public Lands and Forests, U.S. Senate, 304 Darken Senate Building, Washington, DC.

Hon. JOHN BARRASSO,
Ranking Member, Subcommittee on Public Lands and Forests, U.S. Senate, 304 Dirksen Senate Building, Washington, DC.

Re: Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act (S. 730)

DEAR CHAIRMAN WYDEN AND RANKING MEMBER BARRASSO, The State of Alaska provides the following comments on the Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act (S. 730) for the subcommittee's hearing on May 25, 2011.

The State commends the subcommittee's attention to the important issue of resolving Sealaska Corporation's land entitlement, due under the Alaska Native Claims Settlement Act (ANCSA) of 1971. Nearly 40 years since the passage of ANCSA, the equitable satisfaction of Sealaska's remaining entitlement is long overdue.

It is the State's view that lands conveyed to Sealaska must be suitable to meet its cultural, traditional, and economic needs. Lands currently available to Sealaska are inadequate, particularly for economic purposes. In contrast, the new acreage proposed under S. 730 offers greater timber harvest potential.

Southeast Alaska's remaining timber industry, which is a vital sector of the economy, is on the verge of collapse. Currently, the industry is at its lowest level of production since Alaska became a state in 1959. This is due in large part to the fact that only 144,000 acres of the 17 million acres in the Tongass are currently considered "roaded suitable" by the Forest Service. The remaining timber industry of Southeast Alaska relies on Forest Service timber contracts; contracts provided by the State of Alaska, which manages limited State lands in Southeast; and harvests on Sealaska's lands. Combined timber from these three sources supports the industry's logging, manufacturing and export infrastructure. Each of the timber sources is critical to the log supply and stability to the current industry, and allowing the industry to rebuild and create new jobs in the region. The population for virtually every village and community in Southeast Alaska has fallen over the last ten years. This alarming trend is forecast to continue over the next 25 years, unless significant steps are taken now.

Sealaska states that without the passage of legislation, the corporation will run out of commercially viable timber to harvest from its lands and will be forced to shut down its timber operations in 2012. In contrast, with passage of this legislation, Sealaska forecasts being able to support a sustainable forestry program from its lands, indefinitely, allowing the corporation to continue its essential economic contribution to the region.

Furthermore, the proposed selections contain stands of young-growth forest, whereas the remaining valuable timber areas in current selections include only old growth forest. The ratio of young to old growth in the proposed selections will help accelerate the region's transition from old growth to young growth harvest and encourage investment in domestic wood processing and bioenergy facilities.

The State endorses the objectives of S. 730 and recognizes the improvements to this latest version of the Sealaska legislation. However, certain provisions in this legislation raise concerns. The State's primary concerns are described below.

First, we oppose the designation of new conservation lands (151,565 acres in this bill). The lands identified in this section already are provided with sufficient protection under the current Tongass Land Management Plan. Placing these lands in a more restrictive land use designation further reduces the lands available for economic development and iobs and upsets the balance reached as part of the Tongass Land Management Plan.

Second, in certain circumstances, 5.730 raises concerns regarding public access across conveyances. Certain provisions in the bill lack standards for regulating public access, would delegate to Sealaska broad discretion to determine when and where public easements are necessary, and would preclude challenges to decisions by Sealaska regarding public access. In this regard, it does not appear that Section 17(b) of ANCSA applies in all circumstances.

Third, some concern persists regarding the large number of small parcels involved in the bill. For example, certain local communities object to sites proposed by

Sealaska. The inclusion of strong provisions related to public access would significantly diminish our concern.

Fourth, the State questions the puipose of language proposing to terminate restrictive covenants on historic and cemetery sites. This would represent a fundamental change to how the newly selected, as well as previously conveyed sites are treated under ANCSA. We believe the relevant ANCSA language, which applies to all regional corporations, strikes a reasonable balance between site protection and possible uses.

Fifth, the State would like clarification that parcel transfers will not disrupt the Division of Forestry's beach log salvage program for most of the coastline from Dixon Entrance to Cape Yakataga. If the selected upland parcels are transferred from federal ownership to Sealaska Corporation and are within an established Beach Log Salvage Area, we believe Sealaska Corporation should continue the tradition of granting permission to recover logs in the area between the mean high tide line and mean higher high tide line with no associated charges.

Finally, S. 730 proposes to transfer roads to Sealaska for timber harvesting and other development and a right to construct a log storage facility on state tidelands, apparently without the requirement of a State tidelands permit. It is important that these roads and future improvements are available for other timber owners to use including the State, the Alaska Mental Health and University of Alaska land trusts, other Native corporations, and private landowners.

The State requests clarification that a State tidelands permit is required for log transfer facilities. The State of Alaska is eager to work with the Senate Energy and Natural Resources Committee, Senator Murkowski, and Sealaska to address our concerns. Thank you for the opporunity to comment on S.730. We respectfully request that this letter be included in the hearing record.

Sincerely,

JOHN W. KATZ,
Director of State/Federal Relations and Special Counsel to the Governor.

STATEMENT OF OWEN GRAHAM, EXECUTIVE DIRECTOR, ALASKA FOREST ASSOCIATION, ON S. 730

My name is Owen Graham. I am executive director of the Alaska Forest Association. The AFA is the statewide association representing companies engaged in forest practices including support companies. We have 115 members and represent timber companies, loggers, trucking and towing companies, suppliers, and other members who have a stake in the future of a vital and hopefully healthy timber economy in Alaska.

AFA strongly supports the passage of S. 730 without delay. Passage of this bill is critical to the future of our remaining industry. Alaska Native timber is in decline in part because ANCSA land entitlement has not been fulfilled, even though ANCSA was passed over three decades ago. The Native lands represent only about 3% of the land in Southeast Alaska, but Sealaska's timber operations, currently support about 40% of the forest industry employment in the region because of the inappropriate reductions in timber harvest from federal lands.

Drastic reductions in the federal timber sale program since 1990, after the Tongass Timber Reform Act was enacted, have been disastrous for our industry and our communities. The federal lands comprise about 94% of the total land in the region and, as a result of the dramatic decline in federal timber sales; our industry has declined over 90%. If Sealaska is unable to continue their forestry operation, we will not be able to maintain much of our industry support infrastructure—transportation companies, fuel barges, equipment suppliers, etc.

Even though the Forest Service has a timber plan in place which claims to provide up to 267 million board feet annually, the agency has only offered about 15 mmbf of new timber sales annually. Because the timber sale program on federal lands is so unreliable, it is critical that private timber be available to support our industry. In most states, there is a mix of federal, state, and private timber which provides more opportunity to compensate for periodic declines in the federal timber sale program. We do not have that diversity of land ownership in Southeast Alaska, but it is vitally needed. This legislation will move the region a little closer to balance.

From today's struggles described above, AFA hopes our industry can be restored to a level closer to what we had in 1990.That is why the passage of this bill is so vital and so timely, and why this Committee and Congress need to act immediately.

Please do not be persuaded by those who claim the passage of this bill will threaten wildlife viability or plant diversity. This is simply not correct. There are millions

of acres under complete protection in the Tongass including nearly 7 million acres of wilderness or legislated LUD II areas where development is statutorily prohibited. These legislatively set-aside areas include about 2 million acres of commercial timberland. The Tongass Land Management Plan administratively sets aside more than 3 million additional acres of commercial timberland. The commercial lands that are the subject of this legislation total less than 85 thousand acres—less than 2% of the commercial timberlands in Southeast Alaska.

Sealaska is a good steward for their lands. They comply with the State Forest Practices Act regulations and they put an effort into managing their young-growth timber for the future. In addition, their lands are managed to allow timber, wildlife and fish to all prosper on the same acres. I have seen this with my own eyes.

Some of those who speak against this legislation are the same people that have used administrative appeals, litigation and political pressure to drive down the timber supply from federal lands.

A number of small communities have expressed concerns about potential impacts on the timber supply for local processors. Further, these communities fear a loss of recreational and subsistence access to the lands that Sealaska has selected. Sealaska has addressed these concerns; land selections have been modified to avoid the most contentious areas and Sealaska has agreed to provide public access to their lands. Further, the Forest Service timber sale plans for these areas indicate no conflict over the next few years and the agency has ample opportunity to adjust the forest plan to account for potential future timber sale impacts. After all, the forest plan has about three million acres of commercial forestland held in reserve that could be put to use if needed.

Fish streams, wildlife habitat and recreation opportunities are already well protected in this region; what is not assured is the future of our timber industry. We have lost 90% of our employment due primarily to a decline in the availability of timber from the federal lands in the region. We cannot afford to reduce the timber supply from private lands as well.

Sealaska has agreed to provide access to their lands for both subsistence and recreational hunting and fishing and Sealaska's operations will provide continued jobs and other economic benefits to both regional and local communities.

This bill does not finalize the total acres that Sealaska will receive under ANSCA, so we also recommend that the Committee instruct the BLM to work with Sealaska to negotiate the final entitlement.

However, the AFA does have suggested changes to the bill in the Senate. AFA strongly urges that the Committee adopt the recommendations of the State of Alaska to eliminate the "new conservation areas" which are in the draft bill. These are not necessary and will provide very negative effects on the ability of the AFA and its members to conduct timber operations in these areas. Each of the areas is sufficiently managed under existing state and federal law. As with the State, AFA does not support the designation of "new conservation lands."

Additionally, the AFA strongly urges the deletion of any new "100 no cut buffer" on any streams conveyed to Sealaska. These will b e private lands and the State Forest Practices Act fully protects these streams with its existing management regime. It is unnecessary and an unfunded mandate for Congress to impose this additional burden on the State and a private landowner. This provision should be deleted from the final bill.

Thank you again. The AFA urges immediate passage of this bill to help keep our industry alive and our communities healthy.

ATTACHMENT.—REGIONAL IMPACTS

- Sealaska employment and its contractor employment combined is the largest for-profit sector employer in Southeast Alaska.
- Many Southeast communities, including Juneau, experience some level of economic impact from Sealaska timber harvest operations.
- In 2008 Sealaska Corporation, Sealaska Timber Corporation and Sealaska Heritage Institute spend $45 million in Southeast Alaska.
- Sealaska and its contractors directly employed 363 workers in 2008
- Including both direct and indirect employment, Sealaska-related employment totaled nearly 490 workers and $21 million in payroll in 2008.

Summary

- The timber industry and the communities in Southeast Alaska need the continued economic activity provided by Sealaska's operations.
- The only impacts on the federal timber supply for local sawmills in the next 5-years are two commercial thinning projects proposed on Kosciusko Island (both of which have questionable economic viability). Beyond the next 5-years,

there is a potential 2% impact, but that impact can easily be avoided by minor schedule changes.
- We need to sustain all of our timber employment—both from private and public lands—and there is more than adequate timber available to do so. The maximum timber harvest rate on the federal timberlands in Southeast Alaska over the next 100-years would still leave about 90% of the existing old-growth commercial timberlands untouched.

ALASKA OUTDOOR COUNCIL,
Anchorage, AK, May 24, 2011.

Hon. JEFF BINGAMAN,
Chairman, Senate Energy and Natural Resources Committee.

RE: Senate Bill 730—Transfer of National Forest Lands to Sealaska Corporation

DEAR SENATOR BINGAMAN AND MEMBERS OF THE SENATE NATURAL RESOURCES COMMITTEE, As the largest statewide outdoors organization in Alaska, since before statehood, the Alaska Outdoor Council (AOC) advocates for equal access for all Alaskans to public resources. AOC's memberships, of over 10,000 Alaskans, are dependent on regulations that allow public access to federal lands. The "Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act", S.730 is an unwarranted attempt by the, for profit, Sealaska Corporation to seize National Forest Lands that have been designated as multiple-use through a laborious public process.

Transfer of lands selected by the Sealaska Corporation in the 2008 letter to Ms Ramona Chinn, Deputy State Director, Conveyance Management, can be achieved without further federal legislation. Section 403 of the "Alaska Land Transfer Acceleration Act of 2004" established a deadline of June 10, 2008 for Alaska Native Corporations to select remaining entitlement. Sealaska Corporation complied and submitted prioritized land selections. AOC finds no compelling reason to open up further amendments to the "Alaska Native Claims Settlement Act of 1971" (ANCSA) in order to complete Sealaska's land conveyances. S.730 has the potential of igniting years of further ANCSA amendments and possible litigation regarding land conveyances already agreed upon by the other Alaska Native Corporations created by ANCSA. Such actions could lead to years of negotiations and cost to individuals, public conservation organizations, and the State of Alaska as it tries to complete ANCSA lands transfers once and for all.

Alaska's congressional delegation continues to ignore the concerns of outdoors people and the residents of coastal communities in southeast Alaska by re-introducing legislation that was strongly opposed in 2010, S.881. The divisiveness among Alaskans created by the introduction of S.730 far outweighs the economic advantages that could be realized by shareholders in the Sealaska Corporation. AOC does see merit in having BLM complete the transfer of the remaining ANCSA lands to the Sealaska Native Corporation pursuant to the Alaska Land Transfer Acceleration Act of 2008.

Sincerely,

ROD ARNO,
Executive Director.

BILL IVERSON,
President.

STATEMENT OF MIKE DAULTON, VICE PRESIDENT OF GOVERNMENT RELATIONS, NATIONAL AUDUBON SOCIETY, ON S. 730

The National Audubon Society opposes S. 730 as the legislation is presently proposed.

S. 730 is a controversial proposal that would allow the Sealaska Corporation to select and take title to valuable lands within the Tongass National Forest that are currently open to the public for fishing, hunting, and recreation. Much of the land sought by Sealaska would be subject to intensive clear-cut logging. Although a relatively small total percentage of the forest acreage has been logged on the Tongass National Forest, half or more of the large-tree old growth forest has already been logged in Southeast Alaska. The very largest trees—the individual "giants" greater than 10 feet in diameter—were largely eliminated in the last century. Forest stand diversity in the Tongass National Forest has already been substantially altered due to past logging.

The National Audubon Society fully respects the right of the Sealaska Corporation to obtain its full land entitlement as provided for by law under the Alaska Native

Claims Settlement Act (ANCSA) and supports the prompt conveyance by the Bureau of Land Management (BLM) of the lands already selected by Sealaska Corporation. S. 730 is not needed to satisfy Sealaska Corporation's entitlement and would convey public lands in the Tongass National Forest from scores of new areas ranging in size from a few acres to several thousands of acres and create numerous land use conflicts with local communities and other forest stakeholders.

All aboriginal Alaska Native land claims were settled under ANCSA, historic legislation that required a complicated balancing of private and public interests. S. 730 would bypass ANCSA for the benefit of a single, private for-profit business, the Sealaska Corporation. S. 730 would provide the Sealaska Corporation a unique ability to obtain dozens of large and small parcels of high-value public lands strategically sited throughout the Tongass National Forest in Southeast Alaska.

- Sealaska has targeted some of the most biologically productive public lands in the Tongass for logging and other kinds of development, including some inventoried roadless areas. Lands that Sealaska Corporation seeks to obtain includes areas that are heavily used and highly valued as public lands by southeast Alaska residents, commercial fishermen, local outfitters/guides, and visitors to Alaska's Inside Passage.
- No further Congressional action is needed for Sealaska to obtain its land entitlement. In fact, Sealaska Corporation has already made its final land entitlement selections of approximately 65,000 acres with the BLM. Sealaska Corporation is itself responsible for the delay in acquisition of its remaining entitlement as it has asked the BLM to hold off on conveyance of its remaining land selections while it seeks to get more valuable lands by lobbying Congress.
- Sealaska has previously received a significant claims settlement. Sealaska received a substantial settlement under ANCSA, including more than $90 million and approximately 354,000 acres of land to be selected in "compact" and "contiguous" tracts within the vicinity of nine Native villages in Southeast Alaska. Sealaska's past selections have included large tracts of valuable old growth timber that have since been harvested.
- Sealaska supported designation of the land selection areas that it now seeks to modify. Sealaska Corporation supported legislation that established the selection areas that the corporation is now seeking to modify. As reported by Alaska Congressman Don Young, the selection areas established in 1976 "embodies a compromise negotiated and supported by Sealaska, the State of Alaska, Native villages in the region and various environmental groups." (Congressional Record, Dec. 16, 1975) The land selection rights Sealaska Corporation now seeks to change are exactly what the corporation requested previously. Sealaska now wants to override ANCSA so the corporation can select more valuable lands in a combination of large and small parcels scattered across the Tongass National Forest.
- S. 730 would establish a new precedent for the privatization of public lands. As proposed, the legislation could predictably result in additional small parcel claims on public lands being proposed throughout Alaska by other Alaska Native Corporations.
- The lands that Sealaska has proposed to obtain are substantially more valuable than the lands it is entitled to under current law. The proposed acquisition is not based on a value-for-value exchange of the lands currently selected by Sealaska Corporation. The lands that Sealaska Corporation now seeks are disproportionately valuable relative to the forest overall including old growth timber values that are substantially greater than the forest average.

In conclusion, S. 730 would severely impact the national interest in the balanced management and conservation of public resources within the Tongass National Forest and should not be enacted.

STATEMENT OF CLARICE JOHNSON, SITKA, AK

I am a Sealaska shareholder and a member of the Sitka Tribes of Alaska and I am writing to oppose the Sealaska Lands Bill (S.703 and HR 1408). Please accept this testimony as part of the official record.

Sealaska has created a bill that is causing division across Southeast Alaska. By selecting lands which are most valuable for local residents for fishing, hunting and recreation and with no guarantees for continued access to these lands this bill is causing unnecessary turmoil.

Sealaska has a history of poor land management and also is often insensitive to need the local communities and tribes. There is a history of conflict between

Sealaska and tribes in Southeast Alaska. In the 1980's, residents of Hoonah protested Sealaska logging of the land surrounding their village. Residents of Kake won a lawsuit against Sealaska valued at over $30 million, in part to recover damages for misrepresentation and fraud and to rescind and/or reform multimillion-dollar timber sales transactions. Currently the tribal organizations of Kake and Craig are on record opposing the Sealaska selections of cultural sites near their villages.

Recently Sealaska has been referring to its shareholders as "tribal member shareholders" in an attempt to blur the lines between a for profit corporation and tribal governing body in the minds of the public and elected officials. Sealaska is a corporation in name and spirit and should never be confused with a tribe.

I cannot state this strongly enough. Sealaska does not speak for all Alaska Natives living in the Tongass. Villages have tribal bodies which address their individual concerns. Sealaska's mandate is to make a profit, which can conflict with what is best for towns and villages in Southeast Alaska. Sealaska has developed a voting system which ensures that the current board members are kept in power. Many Sealaska shareholders are intimidated by the power Sealaska wields. They are reluctant to speak out against Sealaska, for fears that their children may be denied Sealaska college scholarships. Whether this fear is real or perceived, the silencing effect is the same. Certainly Senator Kookesh's behavior in Craig, Alaska in 2010, shows the lengths Sealaska is willing to go to obtains the results they want.

Sealaska has portrayed this bill as a native rights issue. By using this strategy, it allows supporters to dub any opponents of the bill as racist. Many Southeast residents who care deeply about the land are not comfortable speaking out on this issue due to the inflammatory nature.

There has not been a Sealaska board member from Sitka in decades, even though we are the 3rd largest city in Southeast Alaska. Sealaska did not consult with the Sitka Tribes of Alaska prior selecting cultural sites near Sitka. Sealaska has not had any economic presence in Sitka, and the City of Sitka Assembly passed on May 24, 2011

> "RESOLUTION NO. 2011-13 A RESOLUTION OF THE CITY AND BOROUGH OF SITKA OPPOSING PROPOSED FEDERAL LEGISLATION RELATED TO SEALASKA CORPORATION ANCSA LAND SELECTION TO THE EXTENT THE BILLS PRIVATIZE VALUABLE AND POPULAR PUBLIC LANDS WITH OUTSTANDING SUBSISTENCE, RECREATION AND ECONOMIC VALUE LOCATED IN OR NEAR CITY AND BOROUGH OF SITKA, AND RENDER THOSE LANDS INACCESSIBLE TO AVAST MAJORITY OF SITKA'S CITIZENRY

Sealaska representatives promised over 2 years ago to consult with the mayor of Sitka and the City Assembly as the legislation moved along. This promise was not kept.

SACRED AND HISTORIC SITES

This bill essentially hands Sealaska a 3,600 acre shopping basket in which to put our most treasured public lands and privatize them. The Southeast Alaska topography concentrates use in limited areas and the bill would allow Sealaska to select lands carte blanche and without public comment. Sacred sites are best protected under the current federal guidelines with the government to government relationship with the local tribes.

While Sealaska may say that they will allow access to their lands once privatized, this is contrary to their policy stated on their website which states.

COMMERCIAL AND NON-SHAREHOLDER ACCESS

"Access and usage of Sealaska Corporation property for any commercial use and for any non-shareholders requires prior written authorization. When authorization is granted, Sealaska will place necessary conditions to protect all natural and cultural resources and the safety of those using our property. Sealaska is not obligated to provide access to non-shareholders and may deny access to our property at our discretion. "

Sealaska General Counsel, Jaleen Araujo is on record stating that access will be allowed on a "case by case basis".

Although as a shareholder, I may be eligible for special access to the many fishing, hunting and recreation areas which will be selected by Sealaska as sacred or historical sites, this brings me no pleasure. My wish is to retain open public access, so I can enjoy them alongside all my neighbors. The only way this will happen is if you vote no on Sealaska Lands Bill (S.703 and HR 1408).

STATEMENT OF JUDY MAGNUSON, SECRETARY, PORT PROTECTION COMMUNITY ASSOCIATION, PORT PROTECTION, AK

Port Protection Community Association is on record as being strongly opposed to S730, which will privatize already encumbered public lands, and give them to a private corporation for their exclusive use. Despite the outcry from many of Southeast Alaska's citizens, both native and non native, public resolutions and opposition from many communities, opposition from sportsman's groups, guide hunters, tourist groups, fishermen and fishing associations, National and Alaskan Cave groups. Fish and Game Officials, the USFS, and BLM. Despite all this opposition, Sealaska and our Senators are still supporting this bad legislation, for a Private Corporation that has invested heavily in their campaigns.

To also include the title of 'Jobs Protection', in light of the jobs this legislation has the potential to negatively impact is misleading. Though it sounds good on the surface it is only protecting a few hundred jobs that Sealaska says they will lose if they don't get their land exchange. In fact Sealaska will still get their land despite this legislation, and if they take care of it instead of abusing it like they did with the last 291,000 acres, they should still produce those jobs.

This legislation is also unfair to the taxpayers who have paid for the infrastructure, maintenance, thinning of second growth, expensive roads, and years of forest planning. Many communities such as ours have invested decades in our surrounding forest plans, in countless meetings with the USFS, protecting valuable wildlife habitat from clear cut logging. Much of this valuable timber is still here today because communities fought for it during the time of the 50 year timber contracts, this legislation aims to wipe out all the work of thousands of public citizens and the communities they represent.

Salmon is truly Southeast Alaska's greatest resource, salmon habitat has been hard hit over the years from timber harvest. Streams rely on the forest canopy sheltering the streams to keep them cool during summer drought and hot weather, both situations we see more often of late. Timber harvest on Karst land around Salmon streams is particularly destructive. There are salmon streams and karst included in some of these selections. Salmon streams in Karst cannot be protected by stream buffers as the debris from logging is carried under ground for many miles, clogging and plugging up the entire hydrological area and negatively impacting the streams ability to support a healthy fish population. Our community is primarily a fishing community with a strong subsistence tradition in our surrounding forest, the impact of this legislation on fish and wildlife habitat is of particular concern. These are things that should be determined by experts in the field , NOT by legislators in Washington D.C.

The significant loss of Old Growth Reserves included in this legislation could trigger the Endangered Species Act. These reserves were created in response to species that were petitioned to be included in the lists, and were only rejected because of planning by the USFS to provide habitat needs with these Old Growth Reserves. Lands in this legislation have some of the highest value old growth forests, wildlife habitat, and karst formations in Southeast Alaska .

This legislation is not based on a equal exchange. Besides the inclusion of valuable infrastructure, paid for by the taxpayer. Valuable old growth and wildlife habitat and fish streams. Work done for decades on second growth stands, intended for small mills on POW Island, to produce jobs in the future are at risk. A professional assessment was called for last year of the various lands in this legislation by the agencies involved, to determine how this legislation would impact fisheries, wildlife, jobs, forest planning, subsistence, recreation and communities. In this legislation Sealaska Corporation is trying to get what they are not entitled to, land already encumbered by others, infrastructure paid for by others and the work of others. To allow them to just select wherever they want after 40 years have gone by is wrong and we are strongly oppose to it.

This legislation will also set a precedent in the future for giving public lands away to private corporations. Many communities were concerned with this precedent setting possibility during Senator Murkowski's meetings last year, and even though the Senate representative assured all present that this would not be so, Ms Kookesh Araujo stated in the Wrangell meeting, that if this bill passes it could serve as precedent in the future for other Native lands issues. Are we to have this same fight into perpetuity? Will we have to always be on the look out for any corporation that has the money to promote legislation in it's favor and at the expense of the public and taxpayers? We have jobs to do and business to attend to, we cannot spend years fighting off corporate influence and incursion such as this without it taking it's toll.

Port Protection Community is opposed to this legislation for the above reasons and many others. This legislation is very complex, with many possible negative side

effects. The lack of community and public support being just a part of it. Without this legislation Sealaska will still have their land they have their 80,000 acres already selected within their chosen boxes, they will still have their other 291,000 acres previously harvested, and their other investments and no bid contracts. If this legislation is passed, the people and communities will never have their land back, taxpayer investments will be given away. Vital habitat for fish and wildlife will be lost as Sealaska clear cuts valuable Old Growth Reserves, and ship's the timber and jobs overseas.

RESOURCE DEVELOPMENT COUNCIL,
Anchorage, AK, May 23, 2011.

Hon. LISA MURKOWSKI,
Senator, U.S. Senate, Washington, DC.

Re: Supporting Sealaska Corporation's Land Entitlement Legislation, S.730

DEAR SENATOR MURKOWSKI: The Resource Development Council is writing to express its support for S. 730, the Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act.

RDC is a statewide, non-profit, business association comprised of individuals and companies from Alaska's oil and gas, mining, timber, tourism and fisheries industries. Our membership also includes Native regional and village corporations, local governments, organized labor and industry support firms. In fact, all of Alaska's 13 Native Regional Corporations are members of RDC. Our mission is to help grow Alaska's economy through the responsible development of the state's natural resources.

S. 730 is the result of more than 225 community meetings and reflects the needs and concerns of Southeast Alaska residents. RDC appreciates the efforts of the Alaska Congressional Delegation to fulfill the 40-year old promise of the Alaska Native Claims Settlement Act (ANCSA) and convey to Sealaska Corporation its final 85,000 acres of land.

In 1971, Congress enacted ANCSA to recognize and settle the aboriginal claims of Alaska Natives to their traditional homelands by authorizing the establishment of Alaska Native corporations to receive and manage lands and funds awarded in settlement of the claims. The purposes of ANCSA were not only to settle the land claims of Alaska Natives, but also to provide them with a means to pursue economic development and create sustainable economies for the benefit of Alaska's Native people. However, more than 35 years after the passage of ANCSA, the land conveyances have yet to be completed.

Since 1971, many Alaska Native corporations have become successful and powerful economic engines within their regions and throughout the State of Alaska. Sealaska is the single largest private employer in Southeast Alaska, providing hundreds of part-time and full-time jobs annually, and contributing as much as $90 million each year to the Southeast Alaska economy. Sealaska also provides a significant benefit to Alaska Natives across the state through its annual 7(i) revenue sharing contributions, which have totaled over $300 million.

In recent years, Sealaska has engaged in a comprehensive land entitlement and conservation initiative, allowing it to complete its land entitlement by making cultural and economic land selections outside of original "withdrawal areas." ANCSA limited Sealaska land selections to withdrawal areas surrounding certain Native villages in Southeast Alaska. The problem is that in Sealaska's case, there are no lands remaining in these withdrawal areas that meet the corporation's traditional, cultural, or socioeconomic needs. Forty percent of the original withdrawal areas are salt water. Selection from the withdrawal areas would not fulfill the promise of ANCSA—to create sustainable economies for the Native people of Southeast Alaska.

In return for selecting lands outside the withdrawal areas, Sealaska would allow removal of the encumbrance created by the withdrawal of lands for Alaska Native selection in Southeast Alaska. These lands have significant public value as 85 percent are roadless areas containing some of the highest value intact watersheds important to local communities, have over 112,000 acres of productive old-growth timber and 125,000 acres of core biological and high value areas.

Benefits of this legislation to the federal government are clear. Passage will enable the federal government to complete its statutory obligation to the Natives of Southeast Alaska, as promised under ANCSA. Sealaska would relinquish selection rights on 327,000 acres of land in the original withdrawal areas, which results in management efficiency and certainty for the U.S. Forest Service. Completion of ANCSA conveyances would also be significant for the Bureau of Land Management.

Benefits to others are also clear. For Alaska Natives throughout Alaska, sustainable Sealaska timber operations means continued revenue sharing distributions to other Alaska Natives under ANCSA Section 7(i). For some Alaska Native corporations, 7(i) revenues are vital to their survival. For supporters of roadless designations, Sealaska would relinquish selection rights in areas that are largely roadless and of high value fish and wildlife habitat. More than 70 percent of the acres identified in the bill for selection are in roaded areas. Most importantly, the legislation fulfills Sealaska's final entitlement of 85,000 acres—no more land than is originally owed to the corporation under ANCSA.

If Sealaska does not receive conveyance of all of the lands to which it is entitled in the near term, the primary economic activity of Sealaska will soon cease, which will impact Southeast Alaska's Native people, the Southeast Alaska economy, and Alaska Native corporations throughout the state that have come to rely upon Sealaska's 7(i) contributions.

The Resource Development Council strongly supports the enactment by the United States Congress of S.730 to complete Sealaska's ANCSA land entitlement to allow the corporation to continue to help meet the economic needs of our Native people and their corporations throughout Alaska. Moreover, the Alaska Federation of Natives and the CEOs of all of Alaska's regional Native corporations endorse Sealaska's land legislation.

Thank you for introducing S. 730 and standing up for the Native people of Southeast Alaska. RDC stands ready to assist your efforts in Congress on this important legislation.

Sincerely,

CARL PORTMAN,
Deputy Director.

SOUTHEAST ALASKA CONSERVATION COUNCIL,
Juneau, AK, June 9, 2011.

Hon. RON WYDEN,
Chairman, Subcommittee on Public Lands and Forests, U.S. Senate, 304 Dirksen Senate Building, Washington, DC.

Hon. JOHN BARRASSO,
Ranking Member, Subcommittee on Public Lands and Forests, U.S. Senate, 304 Dirksen Senate Building, Washington, DC.

Re: Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act (S.730)

DEAR CHAIRMAN WYDEN AND RANKING MEMBER BARRASSO: We understand that the official hearing record remains open until June 9, 2011, following the Subcommittee hearing on S.730 held May 25, 2011. We respectfully request that the following testimony and attached supporting material be added to the Subcommittee's official record for S.730 and shared with all the members of the Subcommittee.

The day following your Subcommittee hearing, Chairman Don Young of Alaska held a hearing in the Subcommittee on Indian and Alaska Native Affairs on the House-version of the Sealaska lands bill, H.R. 1408. At that hearing, Chairman Young leveled some outrageous charges at SEACC—all of which were wrongheaded. As we noted in our Supplemental Statement on H.R. 1408, Chairman Young's tirade was eerily reminiscent of the conspiracy theories alleged by Alaska's Congressional Delegation and the timber industry back in 1995 as part of an all-out attack during the 104th Congress on the Tongass Timber Reform Act, Pub. L. 101-626, 104 Stat 4426-35 (1990) (hereinafter "Tongass Reform Law").[1] Given the changes in Senate membership, most of the leaders in this landmark legislative effort are no longer serving in the U.S. Senate. Please accept copies of our Supplemental Statement on H.R. 1408 and accompanying materials, along with this testimony for the official hearing record on S.730.[2] We hope these materials set the record straight and help educate Subcommittee members about the nationally and internationally significant Tongass National Forest.

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[1] In total, beginning in the fall of 1994 until the end of 1996, the Alaska Delegation held 15 hearings on 17 pieces of legislation aimed at rolling back the Tongass Reform Law, increasing clearcutting, and giving away the Tongass.

[2] Instead of including our statement on H.R. 3659 as we did in SEACC's Supplemental Statement on H.R. 1408, the version of SEACC's Attachment K submitted here for the Senate Subcommittee's official hearing record on S.730, is SEACC's July 10, 1996 hearing statement on S.1877, the Senate companion to H.R. 3659.

Of everything said at the Senate hearing, the exchange between Senator Murkowski and Jaeleen Araujo, Sealaska Vice President and General Counsel, regarding whether S.730 would "somehow or other this open[s] the door under ANCSA for the other 11 Alaska Native Corporations to come back in and basically reselect . . . " is most telling. See Hearing Webcast at 159:15—159.24. Ms. Araujo's response was, at best, inconsistent. She first stated "I don't think that allowing us to go outside those withdraw areas opens up some box for other communities." Id. at 160.28—160.34. Next, she said "I also would submit that if other regions have similar inequalities or problems in their region then they should present those to Congress and have a similar public process." Finally, when Senator Murkowski asked whether "Sealaska is the last Native corporation to, to finalize their selections," id. at 161:37—161:47, Ms. Araujo admitted that "I don't know about the exact situation of all the others, but I think that we are one of the lasts (sic)." Id. at 161.46-161.53. We submit that neither the public nor members of this Subcommittee can know how other Alaska Native Regional Corporations may respond to the fundamental changes proposed in S.730 to ANCSA, including changes:

- In the scope of access across ANCSA Corporation lands and who manages the easements;
- That create new categories of selections not available to other regional corporations;
- That authorize the selection of a number of individual small parcels instead of large blocks as other regional corporation were required to do;
- That abolish restrictive covenants on cemeteries and historic sites conveyed to Sealaska but not to the other regional corporations;
- That conveys lands outside of the withdrawal areas designated by Congress in ANCSA.

SEACC has participated diligently and in good faith through this legislative process over the past four years, including weeks of intense discussions with Sealaska last year trying to resolve key issues. As we explained to this subcommittee in 2009:

> SEACC supports completion of Sealaska Corporation's remaining land entitlement under ANCSA. We respect the history and traditions of the Tlingit, Haida, and Tsimshian people who are Sealaska Corporation's shareholders. It is not necessary, however, for Congress to take any action for Sealaska to complete its remaining ANCSA land entitlement. We oppose S.881 as introduced because of the significant changes to ANCSA and other federal laws it proposes and its impact to the Tongass National Forest and the communities and residents that depend on it. We fear that S.881 will not redress any inequities but create new ones among forest users and communities within Southeast Alaska and with other regional corporations across Alaska.

SEACC submitted extensive comments to Senator Murkowski in response to the "discussion draft" of the Sealaska legislation circulated in Southeast Alaska in February 2011. We respectfully request that those comments, dated March 17, 2011, be entered into the official record of the Subcommittee hearing on S.730.

We recognize and appreciate the improvements made by Senator Murkowski in this latest version of the Sealaska legislation, but continue to have major concerns and believe more changes to the legislation are needed. In addition to the fundamental changes in ANCSA and how it is implemented noted above, additional primary concerns are described below.

First, the title of S.730 continues to claim it will "finalize" Native land claims in Southeast Alaska. Last Congress, Senator Murkowski introduced S.784, a bill to recognize 5 new Native urban corporations in communities that did not meet the criteria set for village status under ANCSA and grant each of these corporations 23,040 acres of land—nearly 180 square miles of public lands—from anywhere on the Tongass. She has not chosen to introduce similar legislation this Congress, so far. If Congress chooses to recognize these communities, how much, if any, Tongass lands are conveyed to these unrecognized communities, necessarily implicates how much land Sealaska is actually entitled too. If you intend to address the claims, the best time to do so is now.

Second, the lack of legal descriptions and individual maps for all the parcels Sealaska seeks in Section 3 makes it impossible for Congress and the public to know with specificity what public lands are being withdrawn for potential conveyance to Sealaska. We also remain concerned about losing the valuable wildlands near Hydaburg, Hollis and Edna Bay to clearcut logging if they are conveyed to Sealaska. For example, instead of conveying any part of the Keete, Kassa, and Mabel watersheds to Sealaska, these lands deserve permanent protection as additions to either

the Nutkwa Legislated LUD II or South Prince of Wales Wilderness because of their critical importance for fish and wildlife habitat and their high value to tourism and recreation. There are also other potential locations for possible 2nd growth timber selections, like lands north of a line running west from the head of Warm Chuck on Heceta Island that could alleviate stress on communities like Edna Bay.

Third, the provision imposing salmon stream buffers under Alaska law for state lands on lands conveyed to Sealaska "for a period of 5 years beginning on the date of enactment of this Act," just doesn't cut it. While the 100 foot buffer was considered "state of the art" back in 1990 when enacted, in a 1995 report to Congress, federal scientists concluded that 100 foot buffers in Southeast Alaska "are not fully effective to prevent habitat degradation or fully protect salmon and steelhead stocks over the long term." See USDA Forest Service, Report to Congress, Anadromous Fish Habitat Assessment at 10 (Pacific Northwest Research Station and Region 10, R10-MB-238 (1995). While current management on the Tongass reflect most of the improvements recommended in the Assessment, the State of Alaska's habitat standards do not. Worse, the short term this "requirement" would be applicable, makes any salmon habitat protection illusory at best.

Fourth, the provision allowing Sealaska to select a new category of lands—not enjoyed by other regional corporations—outside of existing withdrawal areas remains highly problematic. Paradoxically, Sealaska several of these sites are slated for ecotourism development at the same time it wants to place exceptional fish and wildlife watersheds, like Shipley Bay, Calder Creek, Old Tom's Creek, and Keete Inlet on the chopping block of industrial logging development. Some of these sites directly conflict with existing small businesses and community plans, and all block future investment by any other party. Sites, like Pegmatite Mountain, Spring Creek, and Blake Channel are actively opposed by local communities. See http://m.juneauempire.com/local/2011-05-07/tenakee-springs-opposes-sealaska-and-ipecgeothermal-site-selection.

Fifth, because an easement, whether exclusive or not, is an interest in land that may be conveyed, the bill should clarify that BLM will survey the boundaries of the easement and deduct the acreage from Sealaska's remaining entitlement.

Sixth, while S.730 no longer authorizes the encroachment on the Hoonah Indian Association's unique government-to-government relationship with the National Park Service in managing Glacier Bay National Park, significant tribal concerns remain with provisions relating to conveyance of sites with sacred, cultural, traditional historical significance to Sealaska. See e.g., Letter to Senators Wyden and Barrasso from the Organized Village of Kake (June 1, 2011). Further, as written, S.730 does not guarantee access to the public or Tribes to hunt, fish, or enjoy such lands.

Seventh, selection and conveyance of identified lands for intensive logging development threatens to unravel the existing wildlife habitat conservation strategy on Prince of Wales and surrounding islands. The reality is that not all old-growth has the same fish and wildlife habitat value. So, whether the lands Sealaska seeks to relinquish contain more old-growth acres than the lands they are seeking is beside the point. The question we hope the Subcommittee asks the Forest Service to explain is what differences exist between the habitat values of the lands Sealaska wishes to relinquish and the lands they seek for intensive logging development.

Eighth, we are concerned with the provision designating certain Tongass lands "Conservation Areas" because we think the management requirements proposed fall short of safeguarding the significant resource values these lands possess. In particular, all these and existing LUD II lands should be withdrawn from mineral entry.

Finally, much was said at the hearing regarding how enacting this bill is key to maintain the timber mill infrastructure in Southeast Alaska and be a boon for the Southeast Alaska economy. We disagree. This bill will keep Sealaska Timber Corporation running for a few more years, but it will do nothing to support timber mill infrastructure in Southeast Alaska. Clearly, the point of this bill is not how Sealaska can provide a portion of the logs from its lands to local mills. Sealaska does not have any mills and exports virtually all its timber unprocessed to overseas markets. The stevedoring jobs Sealaska provides in some local communities are sporadic at best. Sealaska populates its logging camps mostly with loggers that come from all over the West Coast and little of their wage income is captured in the Alaska economy or local Native communities. A very small proportion of those working on Sealaska timber lands are local residents.

Community leaders from across the political and economic spectrum are actively working towards a different vision of the future for Southeast Alaska than that proposed in this bill. Our salmon forest supports the sustainable nearly $1 billion fishing industry, which employs nearly 10 times the number of workers as timber. Our fish, wildlife, and outdoor recreation opportunities support over a billion dollars in

direct, indirect, and induced visitor spending in Southeast Alaska, and provide over 21 percent of the full and part time jobs in Southeast Alaska. The critical foundation of the region's economy is customary and traditional hunting, fishing and gathering; salmon is the primary source of food for rural Southeast Alaskans. We acknowledge the difficult times and economic desperation that our small communities are facing, but logging watersheds vital to food gathering makes it even more difficult for them.

SEACC is willing to work with the Senate Energy and Natural Resources Committee, Senator Murkowski, and Sealaska to address our concerns. Thank you for the opportunity to comment on S.730.

Best Regards,

BUCK LINDEKUGEL,
SEACC Grassroots Attorney.

BOB CLAUS,
Forest Program Director.

STATEMENT OF DEBBIE SEASE, NATIONAL CAMPAIGN DIRECTOR, SIERRA CLUB

On behalf of the more 1.3 million members and supporters of the Sierra Club, I am writing to express our opposition to S. 730, the Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act. This legislation would transfer public lands in the Tongass National Forest to Sealaska Corporation. While the bill has made minor improvements from years past, if enacted as proposed this legislation would have widespread and far-reaching impacts on the Tongass.

While the Sierra Club respects Sealaska's right to secure its remaining land entitlement consistent with the Alaska Native Claims Settlement Act (ANCSA), the proposed legislation would alter the terms of the original settlement legislation and effectively eliminate previous boundaries defining the area from which Sealaska would make selections. As you can appreciate, the ANCSA legislation of 1971 required a complicated balancing of public and private interests. The land transfers proposed by S. 730 threaten this carefully crafted balance and present a number of serious concerns:

- The legislation will greatly hamper the U.S. Forest Service's management of the region. The Forest Service manages these public lands for multiple uses and has announced a transition plan to phase out old-growth logging and ensure a sustainable future for the Tongass. The agency is moving toward long-term productivity and sustainable long-term management of young growth and renewable resources. The Forest Service says that it needs the lands that Sealaska is targeting to fulfill that transition and help stabilize southeast Alaska. S. 730 would adversely affect that transition and only benefit a select few.
- The legislation authorizes Sealaska Corporation to cherry pick 30 additional sites for commercial development. In addition to allowing tens of thousands of acres outside of Sealaska's original land grants to be selected for their valuable old growth and second growth timber, the bill creates a special new category of land—often referred to as "futures sites"—and would privatize scores of smaller parcels throughout the Tongass for purposes other than logging and mining, such as large scale commercial development. Many of these areas adjoin designated Wilderness areas, or are hunting and fishing hotspots necessary to local outfitters, subsistence, and recreational users. Transfer of these parcels not only pose immediate threats to the Tongass itself but also create highly problematic precedent, as this is the first instance that a native corporation has been granted such access to these sites.
- The legislation is extremely controversial within Southeast Alaska, numerous local governments have expressed concerns and opposition to the legislation, and despite claims to the contrary, there has been no public process to engage communities in Southeast Alaska that would be directly impacted by the proposed land transfers.

While the total acreage involved may appear small relative to the overall size of the Tongass, the legislation would have disproportionate impacts on important conservation and public use values throughout the region. The Tongass is by far our country's largest and wildest national forest. Comprising misty fjords and old-growth stands, the Tongass serves as unparalleled habitat for wildlife, stores huge amounts of carbon, and provides exceptional recreational opportunities. It is rightly considered the crown jewel of the national forest system.

The Sealaska Corporation has a well-documented history of clearcut logging in the Tongass, and S. 730 would allow for more of these destructive logging practices in

some of the most important and diverse habitat of the Tongass, including roadless areas.

For these reasons, we oppose S. 730 and urge that you oppose the bill. Again, our organizations respect the importance of fulfilling Sealaska's unsatisfied land entitlement; however we believe this can be done without additional legislation. Any future legislation regarding the Tongass must consider the region's true economic engines including the conservation and protection of fish and wildlife resources, fishing, recreation, tourism, subsistence, and other public uses of the Tongass National Forest.

STATEMENT OF ANDREW THOMS, EXECUTIVE DIRECTOR, SITKA CONSERVATION SOCIETY

Southeast Alaska is an awe-inspiring place of glaciers, fiords, and towering spruce trees. For all of its natural beauty, however, one of the region's most remarkable characteristics is that its land is held almost entirely in public hands as the Tongass National Forest. The public not only has free access to the land, but the public has a say in how the land should be developed while the Forest Service seeks to find the best balance for all users and most significant social/economic impact. The Sitka Conservation Society has over 1000 local members who are all part of our organization because they value the lands and waters of the Tongass. Our membership includes native and non-native Alaskans and also includes shareholders of Sealaska and other Native Corporations.

Our membership is extremely concerned about the the Sealaska Lands Bill (S.703 and HR 1408). We are scared of this legislation because, if passed, some of the most important and beloved places in Southeast Alaska will be taken from public hands and placed in those of a private corporation. The public will need special permission to access the land, and the public will have no power to determine whether and how the land should be developed. For these reasons, we oppose the Bill and request that you do as well.

The Tongass National Forest is enormous, but its richest natural resources are concentrated in a small handful of places, many of which have been identified as Sealaska selections. Most of the acreage in the Sealaska Bill is timber land. A transfer to Sealaska would mean the loss of some of the largest and oldest trees in Southeast Alaska as well as crucial habitat, with only a short-term financial benefit to a limited number of people. It would also mean a loss of millions of dollars of taxpayer investment in Forest Service infrastructure that would be transferred to Sealaska Corporation. This infrastructure would include roads, bridges, landings, and more. Taxpayer investments in this land also has included timber stand management such as thinning and pruning that significantly increases the value of many of the acres that Sealaska has selected, and makes these acres critical for future Forest Service land management plan actions. The land that Sealaska is selecting in the bill is much more valuable than that in the original agreement made under ANCSA. If Sealaska is allowed to select outside of the originally agreed upon boxes, we would demand that it be a value-for-value trade rather than an acre-for-acre trade.

While we are alarmed by Sealaska's timber selections, our largest concern lies in the 3,600 acres of unidentified cultural sites. Under the Bill, practically anything can qualify as a cultural site, regardless of whether there is evidence of human habitation at the site. Sealaska has yet to make its cultural site selections, but, based on its previous ANCSA selections, popular subsistence salmon streams appear particularly vulnerable. Sealaska selected Redoubt Falls, the nearest subsistence stream to Sitka, as a cultural site under ANCSA, despite no archeological evidence that the site had been historically used by Native people. There are a few other subsistence streams within a couple hours of town, which hundreds of Sitka families depend on to fill their freezers each year. All of these streams would qualify as cultural sites. We consider the selection at Redoubt to foreshadow the conflicts that will occur over the next 10 years as Sealaska strategically selects small parcels of critically important social/economic/environment acres across the Tongass.

Once in private hands, cultural sites would have no federal protections, such as the Native America Graves Protection and Repatriation Act. This means Sealaska, which has a horrific land management record, would be left to care for its newly acquired lands with practically no oversight. Sealaska has not made it public among tribes, clans, historical associations, and local governments that once in their hands, important sacred and cultural sites will lose their NAGPRA protections. We find it cynical that Sealaska is selling a story of these sites being better protected in their hands than with the already strict protections under NAGPRA as well as the tax-

payer investment and protection afforded by multiple federal agencies who currently oversee these sites in collaborative agreements with local tribes and clans.

We request that the 3600 acres granted to Sealaska to choose throughout the Tongass be removed from the legislation and that Sealaska work with local tribes and federal agencies to develop cooperative co-management agreements for the sites so that historically important acres remain a public resource and gain all the protections under NAGRPA, the Antiquities Act, and other federal agency management protections.

Finally, we are alarmed that Sealaska has not divulged to local constituencies that the privatization of public lands would result in the lands no longer offering the subsistence opportunities and regulations that are provided to Southeast Alaska residents on public lands. In many cases, the lands that Sealaska is selecting are important for subsistence uses for local Native and non-Native citizens. With these lands in private hands, the subsistence regulations would change from federal land to state/private lands. This would mean that extended seasons and bag-limits would not apply to these lands which would further shut off subsistence access.

Overall, we are extremely disappointed in the way that the Sealaska Corporation and its representatives have organized support for this legislation. The most glaring case has been when Albert Kookesh, a Sealaska Board Member who is also a sitting Alaska State Senator, made an assertion to the Craig City Assembly in an official meeting that they would not receive state funding for their needed projects if they didn't support the Sealaska legislation. That Sealaska Board Member/Senator was subsequently found in violation of state ethics policies. This blazon threat was made in full public display in a City Assembly forum. We have heard worse from local citizens of threats made for not supporting the legislation behind closed doors. Locally, we have heard Sealaska board members use race-based arguments to raise support for the legislation when challenged with non-racial access and land-value issues. It has gone so far as to make people feel that they can't oppose the legislation based on its merits for fear that they will then be branded a "racist" in the region. This dynamic is causing great chagrin in a region that has worked to overcome a history of racial conflict. If this legislation is causing so much divisive conflict, and if the methods of building support are so divisive, we feel that there is obviously a problem with the legislation. If the legislation was a good thing for the region, it would not be causing so much controversy.

The Sealaska Lands Bill already has been divisive in Sitka and other communities, but we may be seeing only the start. If the Bill passes and Sealaska follows through with the land management practices it has used in the past, communities will suffer far more than they will gain. We want what is best for our community and the awe-inspiring place that we live. The best thing for us would be that this Bill is voted down and sent back to the drawing board.

On behalf of the membership of the Sitka Conservation Society, we would thank you for your consideration of our concerns.

June 10, 2011.

Senate Committee on Energy and Natural Resources,
House Committee on Natural Resources.

RE: S. 730 and H.R. 1408

DEAR COMMITTEE MEMBERS, The undersigned* lodge owners, guides and outfitters, sporting goods companies, hunting & fishing groups, and non-government fish and wildlife conservation organizations from Alaska and across the country are writing to express our opposition to the Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act (S. 730 and H.R. 1408, although the bills are far from identical).

We do not dispute the fact that Sealaska has legitimate claim to acreage on the Tongass. However, the locations for selection were clearly defined in the Alaska Native Claims Settlement Act (ANCSA) of 1971. Now, almost 40 years later, Sealaska is trying to change the rules by picking high-value public lands outside these defined selection areas. Sealaska has had the opportunity to select from these areas for a number of years and absolutely no legislation is required for the settlement of their claims.

Sealaska's land selections outlined in S. 730 and H.R. 1408 include many of the best hunting, fishing, subsistence, and outfitter/guide use areas on the Tongass. The sporting community has objected to prior versions of this legislation because of con-

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*Other signatures have been retained in subcommittee files.

cerns over threats to fish and wildlife habitat from increased timber harvest, limits to public access, increased commercial development, and displacement of existing businesses and operators. Given these concerns have not been adequately addressed in the current legislation, and there is no legal justification for Sealaska to make selections outside the ANCSA areas, we urge you to oppose S. 730 and H.R. 1408.

Thank you for your continued support for fish and wildlife conservation on America's public lands.

Best regards,

RANDI SWISHER, PRESIDENT,
American Fly Fishing Trade Association, Westminster, CO.
JIM MARTIN, CONSERVATION DIRECTOR,
Berkley Conservation Institute / Pure Fishing Mulino, OR.

STATEMENT OF CAROL CAIRNES, PRESIDENT, TONGASS CONSERVATION SOCIETY

We are the Tongass Conservation Society (TCS). The majority of our members live in the Tongass National Forest. We are writing to you today because our members strongly oppose Senate Bill 730, cited as the "Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act". S730 proposes to transfer publicly owned lands in the Tongass National Forest to a private corporation. Sealaska Corporation has already selected its remaining lands inside the agreed upon withdrawal areas in accordance with The Alaska Land Transfer Acceleration Act. We oppose allowing Sealaska Corporation to select lands other than those already selected within the boundaries established under the Alaska Native Claims Settlement Act of 1971. These outside selections would significantly compromise the unique values of the Tongass National Forest for wildlife habitat, fish propagation and recreational opportunities now available to all Americans. Passage of S730 would undermine the Tongass Land Management Plan and the Tongass Transition Framework being developed by the USDA.

S730 would authorize an exchange of low value timberland for some of the best fish and wildlife habitat in the United States, if not the world, so Sealaska Corporation can log these areas and ship the unprocessed logs overseas. Our concern about this threat to the ecological integrity of the Tongass National Forest comes from direct observation of Sealaska's intensive logging practices (practices that would be illegal on National Forest land) including: clearcutting timber from the alpine edge all the way to the beach without leaving any remnant old-growth stands of trees and leaving inadequate timber buffers along waterways to protect resident and anadromous fish stream habitat. While S730 includes a provision for 100 foot stream buffers (state Class 1A riparian areas), but this provision would be in effect for only 5 years and not enforceable even during the 5 year time period.

Many of our members make their livelihood from fishing on the waters of the Tongass National Forest. Still others are in visitor, tourism and outdoor recreation businesses. S730 would privatize some 50 undeveloped coves, bays and streams currently publicly accessible for recreational use. The "enterprise/native futures" sites are poorly defined in S730, leaving valuable archeological sites of interest to all of humanity at risk of unrestricted eventual development. For example: The oldest human remains yet found in North America have been found in the Prince of Wales Island Archipelago, the site of most of Sealaska Corporation's selections in S730, and these human remains are not genetically related to the Alaska Native peoples currently residing in Southeast Alaska.

Congressional action is not necessary for Sealaska Corporation to complete conveyance of its land entitlements under ANCSA. Finalization of these entitlements should be a priority, but TCS does not agree with any proposal that extends beyond the withdrawal areas agreed upon under ANCSA and strongly opposes S730. We encourage you to oppose this bill to ensure that the diverse values of the Tongass National Forest are retained for all citizens of the United States and our visitors from around the world.

STATEMENT OF MARY THERESE THOMPSON, SITKA, AK

Please work with the Energy Committee to ensure that section 3c (Sacred and Historic Sites) is deleted from S730. Many southeast Alaskans depend on the lands in 3c for recreation, subsistence, and indirectly for part of their livelihoods.

I am opposed in general to putting public lands into private hands, and especially into the hands of a corporation such as SeaAlaska, which historically has not demonstrated good stewardship of land. I realize that SeaAlaska is entitled to a land

selection. However, 3c selects the lands which are the most extensively used by the public. There is no assurance that in the future I and other Alaskans would have access to these lands, which we have long depended upon for subsistence and recreation. SeaAlaska would be free to use these lands as they choose.

Piece mealing the Tongass Forest is a threat to the integrity of the forest, the sense of wilderness important for tourism, and creates the potential for destruction of salmon habitat and a negative impact on fisheries.

STATEMENT OF ALAN STEIN

My name is Alan Stein. Over 40 years ago as a young man, I looked through a seaplane window at Prince of Wales Island where today Sealaska has stirred up great controversy by having Senator Murkowski introduce S 730.

It was April, 1971 when I landed in Port Protection only to learn Native Alaskans had blocked all public land transfers in the State of Alaska pending a final settlement in the Alaska Native Claims Settlement Act ANCSA (December, 1971).

The US Forest Service told me I could not obtain title to the land I homesteaded until the Natives settled their claims.

While building a cabin with a chain saw and hammer, I became the President of the Point Baker Association to protect Northern Prince of Wales Island. Our lawsuit resulted in the National Forest Management Act (1976). I came before this committee in March of that year to present oral testimony and I represented the United Fishermen of Alaska and PBA.

I worked as a commercial logger at Dean Hiner's floating log camp near Calder Bay and appreciate the bone weary work men of the woods do. Dean and 50 other small outfits sued the two Pulp Companies for anti trust violations that put them out of business and won in federal court. But not before they were driven out of business.

I owned and operated many commercial fishing vessels during my 25 years in Alaska. I will always consider Alaska my true home.

In 1989, I organized a coalition of Alaskan Natives, commercial fishermen, canneries ,and others into the Salmon Bay Protective Association (SBPA). I was elected the Director. About 1,000 commercial fishermen joined our organization. Republican cannery owners such as Alec Brindle of Ward Cove and Bob Thorstenson's Icicle Seafoods to Democratic owners such as Terry Gardiner of Norquest Seafoods made substantial contributions. The United Fishermen of Alaska supported our efforts. As did the major fishing organizations in SE Alaska.

Our law suit, Stein v Barton (1990) did two things.

- First, it led to Congressional recognition and permanent protection of some of the habitat Alaskan Natives and others used to hunt and fish on some federal land on Prince of Wales Island.
- Second it won the first national permanent protections of salmon streams during logging and the injunction put into place was used as a model when Congress made 100 foot no cut buffer strips permanent protection provisions in the Tongass Timber Reform Act 1990.

SEALASKA NEVER ACTED TO PROTECT SUBSISTENCE HABITAT ON FEDERAL LAND
SPIRITUAL CONNECTION ARGUMENT WEAKENED BY ITS 40 YEAR INACTION

Sealaska's arguments of dispossession from their lands by a colonial power would be laughable historically were the earnestness of the claim not so great.

The Wrangell Natives in the SBPA included some whose relatives had been the subjects of the Tee Hit Ton decision. 348 U.S. 272 (1955). Byron Mallot attaches a report by Walter Echo Hawk claiming this Supreme Court case is " one of the worst decisions handed down." P4 Echo Hawk.

In Echo Hawk's view, the US Forest Service was a colonial power over the SE Alaska Natives and Tee Hit Ton is the "Law of Colonialism." Echo Hawk p 7

Mallot's reliance on Echo Hawk—who invokes ideology steeped in "genocide," "marginalization," "colonization," "post colonization," "subjugation, dispossession, and exploitation" to urge a new Congressional policy toward the Tlingit and Haida "in their indigenous aboriginal habitats" (Echo Hawk p1-2)—strikes me as sheer nonsense in light of the rest of the story on Salmon Bay.

Eddie Churchill, an Alaskan Native of blessed memory, who was the head of the Wrangell Cooperative Association, sat on our board of directors. I fought long and hard to make sure that he and his tribe (s well as everyone else) could continue to hunt and fish in Salmon Bay by protecting its fish and wildlife. Congress agreed with us when they designated Salmon Bay a LUD II protecting it for all users, so

long as it remains in US Forest Service hands. Sealaska AWOL when it came to protecting indigenous native habitat at Salmon Bay in 1990—-undercuts their argument they consider all wildlife sacred

Although I knew many of the members of the Board of Directors of Sealaska Corporations at the time, never did any of them express any desire to assist the Natives of Wrangell to preserve the land around Salmon Bay Lake . Never did Byron Mallot or Al Kookesh ask to intervene in this case on the behalf of Native subsistence users.

If Byron really believes Echo Hawk's "statement that monetary compensation does not protect a way of life (hunting, fishing)," p 8, then where was Byron and Sealaska when I was fighting to save that way of life?

The absence of the Sealaska Board of Directors from the SBPA case reinforced something that I heard from the Chief of the Chilkoot Tlingit, Austin Hammond of blessed memory. "There are those of us who want to honor the land and take only what we need," he told me while standing in front of his house on the shore of Lynn Canal. "Some of the young men in Sealaska only see money in the trees. Remember what I tell you."

If Austin were here today, I am sure he would disapprove of Sealaska's bill S.730 to destroy the fishing and hunting grounds of other tribes , other towns of men who grew up outside. Austin would get Byron and Al to sit on the peace rock along the Chilkoot River and talk, before they could get up, with all the leaders of the towns whose lives they want to upset with this bill. Austin would tell them Echo Hawk is sheer bull, a policy whose foundations falter on false historical and legal interpretation.

SEALASKA SEEKS EXPANSIONS FAR BEYOND THE SCOPE OF ANCSA, ANILCA AND OTHER CONGRESSIONAL STATUTES

New land categories are unfair, unjust, and break previous settlements hammered out over decades.

S 730 must be seen in the context of the substantial benefits Sealaska has won from Congress over the last 40 years.

Since the 1960s, Sealaska has obtained multiple settlements of its lands claims, all of which constitute what was fair and just. It has also benefited from other special interest Native bills in Congress.

S 730 goes far beyond anything contemplated in ANCSA or subsequent settlements.

- A cash settlement of over seven million dollars in the late sixties compensated Natives for lands they occupied or used that had been placed into the Tongass National Forest. This was a final settlement, but a few years latter, Natives sought more compensation.
- ANCSA gave Natives a total of 656,400 acres or 1,025.62 square miles. All but 65,000 acres or 100 square miles have been transferred. Sealaska also got a fair share of one billion dollars in cash. This land is among the most valuable timberland in the United States.

  —Villages got 286,400 acres or 447.5 square miles
  —Sealaska got 370,000 acres or 578 square miles. Source: 2007 Annual Report Sealaska.

- Natives then sought Subsistence rights to hunt and fish on all federal land as a priority over all other users, arguing that their spiritual needs were not met by ANCSA.
- In 1980, Congress in TITLE 8 of the Alaska National Interest Lands Act. gave Alaska Natives the subsistence hunting and fishing they sought. This exclusive priority to hunt and fish was a huge additional benefit that Natives had not won in ANCSA.
- Congress created huge tax benefit to Sealaska when it allowed it to sell net operating losses (the value of the timber in 1971 minus the value at a low point in the market, such that "Sealaska has not paid State or Federal taxes) See Sealaska Annual Report 2010 page 54 and may not pay taxes on profits long into the future.
- Sealaska shareholders get free medical care from birth to grave even though the United States never subdued or conquered Alaska Natives.
- Finally, Sealaska and other Alaska Native Corporations under the 8 (a) provision of a federal law were given a huge benefit worth in excess of 25 billion dollars over the last ten years. Alaska Native Corporations do not have to compete with other corporations for federal contracting. They have exclusive bidding rights. See last year's Washington Post article for abuses under this scheme

that Congress failed by one vote to remedy this year. SEE http://www.washingtonpost.com/wp-dyn/content/article/2010/10/07/AR2010100707217.html

—http://www.govexec.com/dailyfed/0309/030609rb1.htm
—http://voices.washingtonpost.com/federal-eye/2009/07/law-makers__cast__a__critical__eye.html

Despite these and other land, cash, tax, health benefits, and hunting and fishing exclusive rights that taxpayers have given the Tlingit and Haida to make them whole, the rationale in Byron Mallot's testimony, in Sealaska 2010 Annual Report and in S 730 is that the injustice of conquest was so great that only greater and more valuable assets will bring peace to the soul of America's conscience.

Besides resting on false assumptions, the Sealaska approach raises troubling issues.

When is final final?

When is enough enough?

Where will the 40 year history of hand outs end?

Will it be when all public lands in Alaska are tied up, access blocked by Alaska Native Corporations, forever breaking the historical compromises hammered out in 1971, 1975, 1980, and subsequent years? It seems to me ANSCA was supposed to put Alaska Natives on their feet, not establish an elite class of corporate officers who make high salaries while shareholders get bupkees. This despite the trusts set aside for elders and students filled not so much by timber money as 8(a) profits.

At some point Congress must put its foot down and tell Sealaska they should spend their time figuring out how to make money rather than take money from taxpayers.

I find this approach not only hypocritical but historically inaccurate in that legal precedent and demographic movements have been jammed into an ideological prism so out of wack with reality that the goal of justice is distorted beyond recognition.

Specifically the Enterprise or Future Sites have extraordinary value both in dollars and use. The Icy Straights site should be either leased to a private corporation based on the projected revenue of power generated from what is likely to be worth more than all the Columbia River Dams. Sealaska should be allowed no Future or Enterprise sites. Enough is enough with taxpayer give aways above and way beyond what justice requires.

Cultural or Sacred sites such as cemeteries are adequately protected under Federal Law as administered by the US Forest Service. This to is nothing but a scam against taxpayers seeking to lock up land now used by many for benefit of a few. The location of gravesites is so closely held that the wilderness itself protects them.

I specifically object to what I have heard one of Sealaska lobbyists who has told me that SE Alaska Natives were disposed of the entire Tongass. This is contemporary myth making on a grand scale and is false.

HISTORY AND ARCHEOLOGY BELIE SEALASKA CLAIMS

Over the ten thousand years of the archeological record of SE Alaska that I have studied, several cultures have occupied the roughly 350 mile long coastline.

- The 9,200 year old man found in a cave near Port Protection has not been shown to be genetically akin to modern Tlingit or Haida. Yet Tlingits claimed and obtained the remains as one of their own.
- A cultural shift occurred around five thousand years ago per the research at Tebenkoff Bay by the University of California Santa Barbara archeologists who found a transition from back bay fish based economies to front bay deer hunting and war like cultures at this period before Abraham left Bagdad.
- Nevertheless, Tlingit occupation may or may not date from five thousand years ago when they migrated out of Japan or Korea and merged with previous cultures. If Tlingits assert their occupation was from time immemorial, they draw on myth, not the archeological record.
- Haida migrations out of the Queen Charlotte Islands, which displaced Tlingit villages northward on Prince of Wales, did not occur until just before first contact around 1774.

While Tlingits may argue they occupied the entire Tongass National Forest, the archeological truth is that there were winter villages in major bays with a population estimated before the small pox epidemic of the early 1830s at less than 10,000. First Coast Survey.

By the time of transfer to the United States, the population was estimated to have shrunk by half.

The distribution of population continued to be winter villages with smaller groups shifting over time during the summer to sockeye stream to sockeye stream with a pattern of depletion and movement prominent. So that in any one decade, use of the land was limited to shorelines at productive salmon creeks. Of the 2500 salmon creeks in SE Alaska, very small percentages were ever used during any decade. And never continuously. The Tlingit and other prehistoric residents occupied a very small part of the Tongass at any one time.

Per the Organic Act of 1884, use and possession of land was required to establish ownership. Given the transitory use of a limited amount of land, the more than 1000 square miles Sealaska has/will have received alone is just reflection of scope of the land used and occupied in any one decade prior to 1867. No future or sacred sites need to be added to sweeten the deal.

I have studied the historical record extensively from the time of first contact through the early 20th century and can find no record of forcible ejection of Haida or Prince of Wales Tlingit from their lands on any where near a systematic or extensive basis. (I was trained in the graduate school of history at the University of Wisconsin, Madison. I have published on the subject matter of Prince of Wales Archeology.)

So, a far different dynamic than the simplistic charge of Echo Hawk's colonialism was at work

Abandonment of traditional villages by 1907 or earlier was the rule and practice on the Prince of Wales Archipelago. Thus the migration from the Kaigani Haida in Klinkwan, Sukwan, Koinglass, and the smaller settlements south of Sukwan Island had been completed or were well underway. Howkan had a post office and missionary provided school teacher from about 1883. It inhabitants moved to Hydaburg, Craig, Ketchikan, and other places after the turn of the century. The abandonment occurred in response to opportunity—opportunity to make money in the salteries and new canneries on the West Coast of Prince of Wales; opportunity to get a better education; opportunity to be near medical care.

A similar dynamic occurred for the village of Tukexan and Kareen, Old Kassan, and the village near Cape Fox, which was abandoned when the Harriman Expedition arrived with John Muir aboard at the fin de sicle.

It is offensive to the historical record to overlay Echo Hawk's rigid ideological colonialism explanation for the conversion of the Tlingit and Haida to Christianity and adoption of modern dress and work ethic. The people who moved to Craig and Hydaberg and Klawock put meat on the table. They were as far from chains and indenture as you and me.

As for the land ethic portrayed by Sealaska of respecting all living things, we should not forget that between the first Boston men who arrived in the 1780s and 1820, a vast herd of sea otter were hunted nearly to extinction by Alaska Natives on Prince of Wales who wanted rifles, blankets, and other trade goods. While the Russians did enslave the Aleuts who they brought to finish off the sea otters after 1802, the Haida and Tlingit on Prince of Wales were able to bring the population of sea otter to near extinction by reason of zeal for modern trade goods alone.

NORTHERN SEALASKA BOARD MEMBERS AND LOGGING IN SOUTHERN TRIBES' BACKYARD, MOST OF IT IN ANCIENT HAIDA TERRITORY

- Almost all the commercial selections in S. 730 are on the southern Tongass where most of the heavy logging occurred in the past.
- Yakutat's Byron would rather concentrate logging onto Prince of Wales Island Archipelago than allow any around his home village at Yakutat and made sure Congress made the 100 square mile ANCSA lands at Yakutat off -limits.
- Angoon's Al Kookesh made sure logging for his town occurred also in the south square in ancient Haida territory.
- Kluckwan on the Chilkaat was all too willing to select lands for logging off the West Coast of Prince of Wales in Haida territory. The combined affect of these changes to ANCSA which moved the selections away from their villages boxes designated in 1975 amendments and concentrated them onto the Prince of Wales Archipelago made sure the hunting and fishing of their fellow Haida and Southern Tlingit were put into jeopardy. This is a second example of hypocrisy on the part of Sealaska.

It is hard for me to fathom why the Tlingit would want to force almost all the logging onto former Haida territory. Perhaps some ancient grievance is at the bottom of it.

I am all for a settlement of Sealaska's claims in the areas it selected in 2008 when it made submissions to the BLM which are inside the boxes established in 1975 by request to Congress of Sealaska's President.

Congress should walk away from S 730 and encourage Sealaska to live up to the capitalistic goals which Byron Mallot helped create when he worked as an aide to Ted Stevens forty years ago.

[The following documents and statements are attachments submitted with the prepared statement of Myla Poelstra, Representing Nine Alaska Towns, Edna Bay, AK.]

ATTACHMENT 1

CITY OF THORNE BAY,
Thorne Bay, AK, May 18, 2011.

Energy and Natural Resources Committee, 709 Hart Senate Building Washington, DC.

RE: Senate Bill 730—Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act

ATTN: SENATORS, The City of Thorne Bay, located on the eastern side of Prince of Wales Island, does not support Senate Bill 730. We question the reasoning and intent behind the request of Sealaska but our main concern is the impact that will threaten the economic viability of our community and other communities on Prince of Wales Island and throughout Southeast Alaska. We continually work with the state and federal governments to develop management plans that will help balance the preservation and uses of our natural resources in hopes to achieve sustainability for our communities and their citizens.

We see Senate Bill 730 not as a "Jobs Protection Act" but legislation that has the real ability to eliminate natural resource jobs, the mainstay of employment in Southeast Alaska. From Timber Harvesting, to Lumber Milling, to Recreation Uses, To Tourist Enjoyment, we see a direct impact to our communities. Removing additional lands from the Tongass National Forest and placing them into private hands will lead to loss of jobs and loss of revenues that are vital in sustaining our economies. Local mills in Thorne Bay, and throughout Prince of Wales (POW) Island, will be depleted of long term timber supplies that are necessary to sustain their business. It is these local mills, and their lumber, that provides building material to POW Island and much of Southeast Alaska.

The plan as present has implications of eliminating 20 plus jobs from the Thorne Bay Ranger District alone. This may sound small in the scheme of things but for the City of Thorne Bay the loss of any jobs is devastating. Most likely the Thorne Bay Ranger District will be reduced from a district headquarters to a field office eliminating the need for support staff and a District Ranger. This will have a direct impact on Southeast island School District as these employees have children in school. Less students, means less teachers, which means less funding, a ripple effect that impacts the School District's ability to maintain programs and schools. For the remaining students the loss of programs and closure of schools means a decline in education, something that no one wants to see in this day and age. The loss of these employees also has the same ripple effect on our communities. Less jobs, means less dollars being spent, means less goods being purchase, means less taxes being collected for needed services adding, means the loss of secondary jobs.

With a declining timber industry and struggling fishing industry our communities cannot with stand another major impact form loss of jobs being created by this plan. We worked hard and cooperatively to develop programs like the 2008 Tongass Land Management Plan and the USDA Forest Service Master Plans that will build positive foundations to replace the past economies. Senate Bill 730 in our eyes will set these efforts back and in many ways and negate some efforts all together. Again it conies back to the jobs. Our efforts over the past years have been programs and plans that will sustain and build on our labor force. This plan throws away all this effort along with existing jobs.

We respectively ask that you vote no on Senate Bill 730. If that is not an option please consider only those portions of the legislation that will provide positive economic impacts to our communities today and into the future. We are trying to plan generations out, as we strive to maintain economic viability and sustainability to Southeast Alaska.

Thank you for allowing the City of Thorne Bay the opportunity to present our concerns.

Sincerely,

JAMES A. GOULD,
Mayor.

ATTACHMENT 2

ALASKA TROLLERS ASSOCIATION,
Juneau, AK, May 20, 2011.

Hon. LISA MURKOWSKI,
U.S. Senate, 709 Hart Building, Washington, DC.

DEAR SENATOR MURKOWSKI: The Alaska Trollers Association (ATA) is concerned about the terms of S. 730, which seeks to finalize land selections promised to Sealaska under the 1971 Alaska Native Claims Settlement Act (ANCSA). ATA appreciates your willingness to listen and work with our industry to affect a number of good changes, however one of the most important provisions, buffer strips, is still sorely lacking. ATA supports conveyance of acreage to Sealaska as outlined in ANCSA. However, without an unqualified minimum 100' buffer strip provision, ATA simply cannot support a bill that alters the original deal.

The Southeast troll fleet is one of the largest in the state. Trollers fish in state waters from Dixon Entrance to Cape Suckling and up to 50 miles into federal waters. Our fishery has three distinct seasons and occurs in every month of the year. The troll fleet is 85% resident and a great many of our members live in rural communities. With over 2500 permit holders, roughly half of them fishing each year, our boats cover a lot of area and fish almost every nook and cranny of the Tongass.

Late winter and early spring are busy times for trollers. It was only last week that our organization became aware of the new revision and upcoming hearings. I would imagine that most fishermen and their gear groups will not have adequate time to review the specifics of this very complex bill and provide comment prior to the May 25 & 26 hearings. As you heard over the past year, the bill is of concern to fishermen due to potential impacts on habitat, fishing areas, and anchorages.

The terms of this proposed lands trade are far reaching and extend beyond the bounds of the original ANCSA agreement. Significant consternation has erupted from a great many community leaders and valid concerns have been raised about the impact of this proposed lands package on current and future decisions issued under the Endangered Species Act. You have made obvious efforts to address some issues, but given opposition that still exists in key communities, it appears there is work yet to be done.

Sealaska does not need this legislation to finalize its land entitlements. It can stay 'in the box' and ask that the selections requested in 1975 by then Sealaska President John Borbridge be conveyed to the corporation. Since ANCSA was signed, multiple management plans for the Tongass have been negotiated, all at great cost to the tax payers. Federal rules require 100' buffer strips along all anadromous salmon streams, except those on private lands, which fall under a special state standard of 66' with variances to permit cutting within the buffer. The lands traded to Sealaska will become 'private'—and ATA supports private property rights—but it is important to remember the significant impact logging and other activities done on these particular lands are likely to have on natural resources owned by the public. ATA is not optimistic that the State of Alaska will widen the 66' buffers for private land currently allowed under the Forest Practices Act (FPA), despite the fact that this standard has proven wholly inadequate protection in many places. With the S. 730 buffer strip provision relying on modification of the FPA, there is absolutely no assurance that our habitat concerns will be addressed.

While ATA opposed the state's 66' standard for private land, we respect that it is law and long ago accepted that the 1975 selections were likely to be subject to that law. Decisions were made during Tongass planning to balance those impacts on resident activities and other Tongass-reliant industries. Why would we now support trades of different 'out of the box' public lands to Sealaska if the corporation will be allowed to apply lesser conservation measures to that acreage—much of which is in prime salmon rearing and/or fishing country? This is unacceptable.

There must be a higher bar on lands that were not previously designated part of the 1975 ANCSA lands bill. The lands in question have been woven into the Tongass management plan according to their various conservation and land use values. The public has a right to demand better logging practices be part of any 'out of the box' deal. 66' buffer strips are clearly not better than 100', which has always been identified as the bare minimum necessary to safeguard anadromous fish. Some vulnerable areas need 500' or more, so from our perspective, 100' is already a significant compromise.

Finally, many of the 'out of the box' areas already have existing roads or other publically paid for infrastructure. Where are the analyses that would explain to the public what the 'out of the box' trades will mean to the region? Is this new deal good for everyone, or just one party?

In sum, ATA agrees that it is important to resolve the long-standing ANCSA commitment to Sealaska, but the language currently proposed for S.730 doesn't do enough to protect critical habitat that will be slated for logging and other development. In addition, there are remaining areas of local concern, with respect to area selections and use of those selections, which we will not have time to fully analyze prior to the hearing, or during the fishing season.

Thank you for the opportunity to comment on this important matter.

Best regards,

DALE KELLEY,
Executive Director.

Attachment.—Alaska Trollers Association S.730 / H.2099: Issues of Concern

LACK OF ANALYSIS AND PUBLIC PROCESS FOR SOUND DECISION MAKING

To date we have yet to see any scientific, legal, or socio-economic analyses comparing the impacts of various lands trade options on critical fish and wildlife habitat; onshore and nearshore fishing areas/anchorages; communities; the state; existing Tongass management plans; or any other important public considerations. If such analyses exist, we encourage you to distribute them. If not, we ask that you have them developed for public review. The affected public must be better engaged in the selection process and provided the tools to do comparative analysis to underpin their positions.

HABITAT

ATA's primary interest with respect to any commercial activity in the Tongass involves ensuring protection of fish and wildlife habitat values. We have long supported the current federal riparian habitat standards and state Forest Practices Act as important mechanisms to protect fish and game.

Nowhere in the draft language does it appear to require enhanced habitat protection for lands proposed for conveyance that lie beyond the previously negotiated ANCSA withdrawal areas. Why would the fishing community support less habitat protection than is already there? ATA was involved in the original buffer strip debate and we know full well that the fishing industry supported the 66' buffer strip and variance provisions on native lands only as a compromise based on a package deal. Our industry anticipated that lands outside the original ANCSA withdrawal areas would be protected by more restrictive federal and state rules.

Many of the watersheds slated for logging in your draft inventory are known spawning areas considered of high value by state and federal biologists. With this in mind, ATA urges you to amend S. 730/H.R. 1408 with language requiring enforcement of riparian standards equivalent to federal law for any lands selected outside the already agreed to ANCSA withdrawal areas. Obviously, additional protections inside those areas would be appreciated and strongly supported.

IMPACT ON FISHING AREAS

Our members want assurances that there will be no negative impacts to traditional fishing areas, including safety at sea through loss of anchorages. This concern is not based on idle speculation or paranoia about what could happen; in fact, we have already seen many key fishing areas and safe harbors compromised in previously logged areas. Seafood is the biggest economic driver in the region and state; our industry and communities rely on healthy fish stocks and safe, productive fishing areas.

PUBLIC ACCESS AND TONGASS MANAGEMENT

Public access is a key consideration to those who live, work, hunt, gather, and recreate in the Tongass. ATA does not support loss of existing public access—now or in the future. A significant amount of time and tax payer money has gone into planning and implementing management regimes to secure multiple use of the forest. For instance, LUD II designations have long been important tools to balance habitat values and local use. Language in the bills does not do enough to protect habitat and sends a mixed message about whether or not access to transferred lands can ultimately be restricted or denied.

FUTURE SITES

The intent of these sites, and how they will be managed, remains unclear. Many of the proposed areas are important both for local use and to protect fish and wildlife; they have been afforded the appropriate protections under the Tongass land use

plan. How will those values be protected if the lands are put into private ownership? Who will pay to monitor streams and upland habitat? How will protections be enforced? Will local use be permitted over time? ATA believes the public should be afforded access comparable to what now exists and the state must be maintain authority to enforce its fish and wildlife laws.

ATTACHMENT 3

JUNEAUEMPIRE.COM

MY TURN: MURKOWSKI BILL IS BAD FOR FISH

Posted: May 21, 2011—9:57pm
Advertisement
By PAUL OLSON

Next week the Senate Natural Resources Committee will hold hearings on U.S. Sen. Lisa Murkowski's Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act. The bill perpetuates a 40-year-old history of efforts to solve the native lands claim issues with a failed economic model—intensive old-growth clear cutting. This is bad public policy and a rotten deal for salmon fisheries.

This transfer of public forests to a private corporation poses significant risks to habitat. Bill proponents have not been candid about these impacts. They say the bill "protects" some watersheds to offset the habitat loss. They act like it is a good compromise to place temporary riparian buffers on limited number of streams. But an outdated and temporary buffer program and a few conservation areas do nothing to mitigate the impacts of further industrial scale clear cutting on Prince of Wales Island (POW).

The only issue the bill presents for people who fish relates to mixed-stock fisheries management. Too much habitat loss in one area causes population depletions or even localized extirpations. This then triggers restrictive measures like shorter seasons or smaller bag limits or closures of traditional fishing areas. To illustrate, there are many healthy salmon populations up and down the west Pacific coast. There are also nearly 30 salmon stocks listed under the Endangered Species Act. It is those listed fish and other weak stocks that have triggered the periodic or permanent closure of nearly every fishery south of Dixon Entrance.

This means that it does not really matter how many acres the bill allocates to some protected status. The acres that matter most from a fishery perspective are those where fish habitat is at risk under Alaska's lax forest practices rules. The new clearcuts spawned by Murkowski's legislation will occur in the middle of an island with the highest habitat related fish kill rates in the region.

High stream temperatures and poor stream flows are responsible for many of these fish kills. Warm rivers are a significant problem for salmon, including in Alaska. Scientists documented this problem on the Kenai Peninsula, on the Yukon River and in this region, on POW in particular. This is a serious issue. The overall global climate and especially the Alaska climate are in a long-term warming trend.

Roads and logging directly contribute to stream temperature problems. It is no coincidence that the worst fish kills occur in heavily logged and roaded areas such as POW. In 2001, the Forest Service reported 318 days of high stream temperature events at a number of sites on the island. Alaska Department of Fish and Game estimated fish kills there in the tens of thousands. The fish kills happened again in 2003. Then, in 2004, record temperatures and record low levels of precipitation occurred throughout the Tongass. Temperatures of some small streams reached 82 degrees. In some cases, salmon even bypassed their natal streams on islands for mainland streams cooled by glacial runoff. Two years later, in 2006, the pink salmon run failed. Harvests fell to their lowest levels since 1988—to 11 million fish. In 2008, returns remained well below the long-term averages of 30 million fish.

The 100-foot buffers on class I streams will not add meaningful protection to salmon that have to survive both habitat loss and the periodic hot, dry summers that climate change scientists project for this region. First, the buffers are temporary and Alaska's legislature would never make them permanent. Many of them simply blow down after the removal of the surrounding forest. Neither Murkowski's bill nor Alaska law protects the countless miles of lower class streams that influence water quality. The lack of protection for these headwater streams is scientifically indefensible. And finally, Alaska's buffer system ignores the relationship between temperature, water quality and the surrounding landscape.

It is important for fishermen to let the committee know that this legislation is poor public policy that poses unacceptable risks to fishery habitat. Emails can be sent to scott—miller@energy.senate.gov and faxes to the committee at (202) 224-

6123. The bill needs to go away and not come back. There is no improving it when it comes to fishery impacts.

- Olson is a resident of Sitka.

ATTACHMENT 4

LETTER FROM BARTH HAMBERG, SITKA, AK, 30-YEAR RESIDENT

May 20, 2011.

TO THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES: The Sealaska Corporation's land selection of the falls at Redoubt Lake, Sitka's most important sockeye subsistence fishing site, would give one the town's most prized parcels of public land to a private corporation and eliminate the public's right to fish there. Southeast Alaskans better get used to the idea, because under Senator Lisa Murkowski's Sealaska Lands bill, we will likely see this repeated over and over, as Sealaska takes prized beaches, Forest Service cabins, trails, hot springs, and just about any site they want by providing only the thinnest evidence of cultural use.

Under this bill, Sealaska has 10 years to claim 3,600 acres wherever their hired consultants deem to be a "cultural site", with no right of protest by the public. Contrary to popular belief, these sites don't have to be village or burial sites; they can be any site with "cultural use" or "cultural landscapes" even if the nature of that use is unknown and undocumented. Since virtually any site of interest to the public today was likely used by people in the past, Sealaska can claim about any site they want.

It gets even worse. Contrary to claims by Sealaska and Senator Murkowski that public access to these sites would continue, the law actually precludes public access for the harvest of fish and game, and only allows for public access easements "across" and not "on" the property. The public's use would be at the whim of the corporation.

Even if you aren't a recreationist, guide, or tour operator, you should be incensed that all of this would be paid for by the US taxpayer at the cost of many millions of dollars in planning, review and survey costs. The Forest Service has invested millions of dollars in infrastructure in docks, cabins, and trails and the like; the real estate value of these prime parcels alone would be staggering.

The supporters of this bill imply that these lands are somehow "threatened". In fact, cultural sites are better preserved today under the strong cultural resource protection laws on public lands than they would be under a private corporation who could sell or lose them in bankruptcy proceedings. Local tribes, who have a much more intimate knowledge and connection with the land than the Corporation, already have a strong role in any proposed activities on cultural sites.

This bill would change the unique lifestyle and economy of Southeast Alaska forever. We would no longer manage our most important lands through a public process. Instead, decisions would be made in the corporate boardroom of the Sealaska Corporation. I strongly urge the committee to table this bill once and for all.

ATTACHMENT 5

LETTER FROM CHRIS MCNEIL, JR., PRESIDENT AND CEO, SEALASKA CORPORATION

Today's summit is a very pivotal moment for all of us, as we take measure of where we are.

Because the jobs and income from timber are crucial to our region's economy, our decisions affect not only everyone in this room but also the thousands not present who are stakeholders in our decisions.

This morning..

- I will review the vital role that timber and Sealaska play in our SE economy and how we impact both Native and non-Natives citizens.
- I have some very sobering information about the extent of our timber resources.
- I will talk about how we currently manage public and private timber resources in Southeast.
- And, finally, I want to share with you some new ideas that can lead us all to a better future. (pause)

As most of you know, Sealaska Corporation is the leading private provider of jobs and income in Southeast Alaska. We provide 700 direct jobs with a $20 million payroll, and support more than 1,000 direct and indirect jobs worth about $30 million a year in wages. In all, Sealaska contributes $90 million a year to Southeast Alaska, benefiting some 350 businesses and organizations in the region.

In addition, Sealaska is the leading provider of revenues shared with other Regional Corporations through the Section 7(i) of ANCSA.

Since revenue sharing began in 1982, Sealaska has contributed nearly 300 million dollars to the other Regional Corporations. Think of that: more than oil, more than minerals, the timber owned by Sealaska has been the most abundant producer of revenue from the natural resources owned by all Native Corporations.

This contribution—some 42% of all shared revenues under ANCSA—comes from less than 1% of all ANCSA lands. And managed properly, this resource can provide for a sustainable economy.

Many of you know our Board and management is guiding Sealaska through a diversification strategy in which we are investing some of our income in industries and places far from our base here in Southeast. I believe this strategy will ultimately provide a measure of security to all our people. But there is no question that timber will likely always be the greatest source of local jobs and revenue for Sealaska.

As you know, the most important aspect of any business plan is reliability. That brings me to the most crucial part of my message to you today.

To be painfully clear, we have new information that shows that we cannot sustain our current level of harvest and jobs.

First, let me give you a little background. Sealaska has always been committed to sustainable harvests. We believe in managing forests for future generations. Our harvest rates were based on:

- An estimate of our timber resources;
- The assumption that our young forests would reach commercial maturity 50 to 70 years after we began harvesting;
- And the faith that we would gain title to all our lands in a reasonable time period.

Based on these estimates and assumptions, we have managed our lands sustainably.

But some of those assumptions were wrong—and this is a key point.

We assumed that that federal government would complete our land entitlements in a timely manner. Further, we assumed that the federal government would cooperate with Sealaska to exchange our most environmentally sensitive lands for lands well-suited to timber management.

Our expectations have not been met—and this forces us to reevaluate our rate of harvest.

Before I continue, I am mindful of the irony of Sealaska complaining about not receiving all our lands, when many of you represent people who have never been granted any land. These problems deserve resolution, as well.

My second key point involves new information.

As you can imagine, having accurate information about our resource is vital to Sealaska. Recently, using the most technically sophisticated analysis available, timber professions developed a far more accurate assessment of our timber inventory than was available to us in the past. We not only studied Sealaska lands, we also studied all of the Tongass National Forest.

We believe we now know more about the state of the forest resources in Southeast Alaska than anyone. I want to share those findings with you today because we all have a stake in this information. And we must all decide what we will do.

We discovered that our total inventory of un-harvested timber is less than we believed, and given current economic conditions is about 400 to 500 million board feet.

The implications of this new understanding are sobering:

1. Sealaska will reduce its harvest by 25% in 2006, and probably will reduce it further over time.
2. It is even more urgent that the federal government complete its long-standing promise to Sealaska to transfer all our entitlement lands.
3. It is now more urgent that Sealaska exchange its high public value land for land in the Tongass.
4. Even if these matters were resolved, we would still need to reduce harvest now in order to avoid an even greater reduction in the future, because the lands we have previously harvested will not have harvestable timber for another 25 to 35 years.
5. The reduced harvest will obviously lead to reductions in employment, Sealaska income, and 7(i) revenue sharing money.
6. We estimate the total reduction in economic terms to the state of Alaska would be in the range of 22° million dollars. This would reflect the reduction

in net income to Sealaska, the reduction in wages, benefits, and taxes, the reduction in 7(i) revenues, and the associated multiplier effect.

There is another concern: the Tongass inventory may also be lower than first thought.

I hasten to say this does not reflect on the Forest Service management, any more than this new information should reflect on past Sealaska management. The fact is this new information was not available before now.

But, regardless of whether the information is welcome or not, we cannot ignore it.

The implications are significant to SE Alaska. Although the domestic processing of Forest Service logs produces fewer jobs than in the past, it is still important in some communities, and it matters to the contractors and their employees who build roads and harvest timber.

So, we are left with one conclusion: the quality and grade of timber sales from the Tongass will have to change.

Currently, the majority of the Tongass—more than seven million acres—is off limits to any development at all. This protected acreage would not have been protected without the political support of the Alaska Native Community. That said, the capacity of the Tongass National Forest that is designated for harvest far exceeds the actual production.

It is currently authorized to sell 267 million board feet per year. In fact, the harvest plans typically call for cutting around 160 mmbf/yr. But only about 50 mmbf/yr are sold and cut—about half of what Sealaska itself has been producing on a fraction of that land base.

Not long ago it would have been inconceivable that the Tongass, with a land base of over 16 million acres, would be producing lower harvests than Sealaska, with a base of just 290,000 acres.

This is not due to market conditions, but the constant legal challenges to Tongass sales as it is to harvest regulations. And as Native leaders, we must be willing to point out the truth—that the strategy of our friends in the environmental community to severely limit harvest on the Tongass is hurting Native people disproportionately.

The bottom line is this: The trend for timber sales on the Tongass is not encouraging to those in Southeast who depends on or support the industry.

The question before us now is, "What will we do about it?" That brings me to the final point of my presentation this morning.

We need to think and act differently. We need new ideas—truly, a new paradigm. And we need to do so from the perspective of how we can help each other, rather than from a view of scarcity and win-lose.

At Sealaska, our goal has always been to protect and grow our assets for economic, cultural and social benefits—today and in the future. As stewards of our land, Sealaska spends over two million dollars annually on silviculture. This is all for the future benefit of our tribal member shareholders and the SE economy, for which there will be no economic return for about 50 to 70 years. By extending this philosophy to all of Southeast, I believe that through thoughtful, focused, strategic management, we can extract greater value from our forests.

Today, I want to offer to you—and to all the citizens of our communities in Southeast Alaska—a new vision of Sealaska: a vision of integrated management and marketing that can create greater benefit for all Alaskans.

First, I see Sealaska as a true brand—a focused, aligned, and powerful brand that itself creates value. Achieving this goal requires a consistent vision for our future and flexibility in how we do business.

As part of that flexibility, we need to fundamentally rethink our core strategies. We need to evaluate the future of the forest products industry in Southeast Alaska, and Sealaska's role in it.

As global competition increases, pressure for ever-cheaper timber also increases and our margins decrease. When timber is viewed as a commodity, our distance from markets and regulatory framework put us at a distinct disadvantage.

Yet there is another way. If we build a brand and customer base around our cultural and environmental stewardship, and deliver a superior product, our timber can command a premium price.

This has been done may times before. For example, the seafood industry is making the same shift.

Is Copper River salmon really so superior to other kinds? What about Yakutat Wild, Yukon Wild or Rainforest Wild?

In today's market, delivering top quality timber is not enough. In addition, we need to build the Sealaska brand to reflect our cultural identity, community connec-

tions and environmental stewardship. And we need to reflect these values in the way we operate.

For example, we must consider an independent certification of our forestlands, as the fishermen did with the Marine Stewardship Council. If we want to project our environmental stewardship, we must find responsible environmental partners to endorse our forest management and tell the world about the quality of our work on the ground.

These initiatives would be part of our overall strategy to align the company's image and operations. Becoming a model of forest management, community relations and cultural promotion would support Sealaska's position as a company delivering value to our customers and communities.

We are mindful that environmentalists have successfully stigmatized any timber that comes out of the Tongass National Forest. This adversely impacts all of Southeast Alaska, and disproportionately impacts Alaska Native people. I believe that our branding approach, together with the other ideas I will outline, can overcome and turn this around. We hope all responsible groups will work with our community to define and support this new brand.

Second, as part of Sealaska's continuing program to diversify its income and investments, we are evaluating investing in non-ANCSA timber enterprises that contribute to our economy and employment opportunities.

The third major course of action is one I mentioned earlier. To ensure that Sealaska's harvests do not decline more than necessary, we must resolve two very fundamental and important issues:

- First, the federal government must fulfill its commitment to transfer at least 64,000 acres to Sealaska as entitlement lands. And because we believe the original federal lands "withdrawn" for this transfer are not adequate, we propose that the entitlement selections be made from outside the old withdrawal areas.
- Second, the federal government needs to complete a long-contemplated land exchange with Sealaska. Sealaska owns some very special lands that frankly would fit better in public ownership.

All of these ideas, however valuable, are incremental in scope. We also need to think bigger thoughts. This brings me to the fourth and most important part of this new vision for all Alaskans.

I invite you to consider the possibility of consolidating all the timber programs of Southeast Alaska—including that portion of the Tongass designated for harvest—under one organization—a Native Stewardship Trust. Consider the possible benefits of a unified timber supply:

- A single management team
- Sealaska could provide valuable marketing and branding capabilities to the timber produced—something that would be virtually impossible with a Forest Service product
- Timber could be managed to high standards, as both organizations do now, but under Sealaska, it could be managed with far more certainty and predictability—a great advantage for anyone wishing to invest in domestic processing
- A single ownership could manage the landscape more effectively and efficiently.
- With Sealaska as the steward, it is likely that more timber could be produced at lower cost and with greater predictability.
- Under that model, it should be possible to generate more jobs and income for both the processing side of the industry and the round log side.
- The public access now available on federal lands could be continued on the lands shifted to Sealaska's stewardship.

All Alaskans, Natives and non-Natives, have shared values and a shared future. Too often, we Natives continue to think in the old paradigm of separateness. There are times when, as in sustaining our cultural heritage, that is necessary and appropriate. But increasingly in our economic lives, separateness may be self-limiting.

In creating value from the vast forest resources of Southeast Alaska, Native people have something special to offer, not just to Alaskans, but to the world. I ask you all to hold your heads high and carry this conversation to all our fellow Alaskans.

Remember this: As Natives, we understand that a forest is a unified community, a complex system that is greater than the sum of its parts. The same is true for the human community of Southeast Alaska. Together, we can produce something far better than we are doing separately.

Thank you.

ATTACHMENT 6

ALASKA EDITORIAL: A NEW VISION FOR OUR FORESTS AND OUR FUTURE

By CHRIS E. MCNEIL JR.

November 21, 2005.

Forest resources are vital to the future of Alaska and all its people. In Southeast Alaska, after fishing, forests provide the most private jobs. And income from Sealaska's timber harvest is the leading source of revenue shared among over 80,000 Alaska Native tribal shareholders, through the 12 regional corporations and over 200 village corporations.

I invite all Alaskans to consider a new vision: a vision that creates more jobs, stability, and value from the forests of Southeast Alaska.

This vision centers on two primary ideas:

- fulfilling all land entitlements promised by the federal government to Sealaska, and;
- unifying management of all harvestable timberlands in Southeast Alaska under a Native Stewardship Trust, to be operated for the benefit of all citizens.

It is critical we have this discussion right now.

Recently, I announced sobering news that, because our forest inventory is smaller than previously understood and the federal government has been slow to complete its promises of land, Sealaska must reduce its timber harvests.

While the news coverage has understandably focused on reduced jobs and expenditures, (some $22.5 million annually) the important question before us is, "What do we do now?" I see three critical steps:

First, the federal government must quickly complete the land transfers to Native corporations it promised 30 years ago under the Alaska Native Claims Settlement Act. We kept our part of the bargain; the federal government has not.

Sealaska is still awaiting transfer of 64,000 acres of land it is entitled to under ANCSA—land that could help restore lost timber revenue and jobs.

Second, the federal government should complete the long-contemplated land exchange with Sealaska. Sealaska owns some very special lands that frankly would fit better in public ownership. Exchanging those lands for property better suited to timber harvest is not only the right thing to do, it would ease our current crisis.

And finally, all Alaskans—indeed all Americans—would benefit from more effective management of our existing public timber resources. In Alaska, this is our elephant in the room, the thing everyone knows and no one discusses.

The Forest Service is hamstrung at every turn by activist lawsuits. The Tongass harvest is only about 20 percent of what's authorized in the Tongass Land Management Plan. Why do Alaskans continue to accept that?

I propose that management of the harvestable portion of the Tongass be returned to its original stewards—Alaska Natives—through a Native Stewardship Trust led by Sealaska. Under unified management, timber could be produced more efficiently, with consistency and high standards, generating more jobs and income for all Alaskans.

Of course, public access now available on federal lands would continue on the lands shifted to Sealaska's stewardship. And, as part of our program to position Sealaska as a provider of highly valued "green" products, we would pursue independent certification of our forest lands to confirm the good work we do on the ground. This would also help the mills these lands support.

While our ancestors were the original stewards of these forests, Sealaska has also demonstrated the ability and commitment to properly steward our forests. We're proud, for example, that peer-reviewed scientific studies confirm our practices protect fish, streams and other natural resources.

Over the last 50 years, the federal government has increasingly assumed management of our timber resources, while creating social programs to provide for Alaska Natives. And over time, Natives and non-Natives have come to view natural resources as something to be divided, rather than shared. We need a different vision—a win-win concept.

It is time Alaskans consider the benefits of acting together, and time for Alaska Natives to once again assume responsibility for our own future. The first step in that journey can be the Native Stewardship Trust.

In creating value from the vast forest resources of Southeast Alaska, Native people have something special to offer, not just to Alaskans, but to the world. We understand that the forest is an ancient yet renewable gift that, treated with respect and carefully managed, will provide a better future for all Alaskans.

That is my vision. I invite you to become part of the discussion.

- Seattle and Juneau resident Chris E. McNeil Jr. is the president and CEO of Sealaska Corp.

ATTACHMENT 7

FROM THE DESK OF WAYNE REGELIN, JUNEAU, AK

April 28, 2010.

Hon. LISA MURKOWSKI,
U.S. Senate, 709 Hart Senate Building, Washington DC.

DEAR SENATOR MURKOWSKI : Passage of the "southeast Alaska Native Land Entitlement Finalization Act" (S.SS1) could have unintended consequences that would cause severe economic problems for Southeast Alaska.

Both the Queen Charlotte goshawk and the Alexander Archipelago wolf have been identified as distinct population segments for the puposes of consideration under the Endangered Species Act. A vital part of the conservation strategies contained in the Tongass Land Management Plan to keep these populations from being listed as ENDANGERED SPECIES by the U.S. Fish and Wildlife Service was the creation of oldgrowth forest reserves in the Tongass National Forest where logging would not occur. The referenced legislation would allow the Sealaska Corporation to select several of the old-growth reserves in southern Southeast Alaska and the corporation's representatives have stated that they inteld to log the-lands selected for economic development. If these reserves are conveyed to Sealaska by Congress it will almost certainly lead to a new petition to list the goshawk and wolf as endangered species and the distinct possibility that they will be so designated.

After careful deliberations amongst ourselves and after consulting with key members of the scientific community, the three of us have concluded that this issue must be carefully examined from a political and scientific point of view. It is also crucial that this examination be conducted before any further decisions are made on land exchanges, new land selections, or modifications to TLMP.

The scientific assessments and the politics surrounding proposal such as this legislation is an arena in which the three of us have spent considerable time and effort and have developed an expertise that we feel qualified to exercise. Collectively, we have spent over 50 years dealing with all of the nuances of the Endangered Species Act and the many attempts to defend against its abuses and to modify the Act into a more workable and effective federal law. All three of us have occupied the Wildlife Division Director position within the Alaska Department of Fish and Game and two of us served as Deputy Commissioner.

We have concluded that the proposed land "exchanges" being proposed in S. 881 have huge endangered species ramifications for the Alexander Archipelago wolf and the Queen Charlotte goshawk. Both species have been petitioned to be listed as endangered or threatened species in the past. These petitions were rejected by the U.S. Fish and Wildlife Service for listing in Alaska, atthe time, because the planning processes implemented by the U.S. Forest Service adequately provided for the habitat needs of the species and as a result the projected population decreases presented by the environmental community were not imminent.

The November 8, 2007 News Release by the U.S. Fish and Wildlife Service on their decision to NOT list the goshawk is relevant:

> "We find that the best available information on biological vulnerabilif and threats to the goshawk does not support listing the Alaska population as threatened or endangered at this time, in light of current conservation strategies being implemented by the Tongass National Forest, including designation of substantial areas of the forest in no-harvest stafus and use of goshawk standards and guidelines in those portions of the forest open to timber harvest."

It is obvious that the selection of lands in southern Southeast Alaska could substantially affect the conservation strategy implemented on the Tongass National Forest. A quote from the October 8, 2009 comments by Department of Agriculture Under Secretary Jay Jensen to the Senate Subcommittee on Public Land and Forests, Energy and Natural Resources Committee says :

> "The lands currently selected by Sealaska in the withdrawal areas generally do not contain significant amounts of economically viable old growth"
> "The proposed selection areas on Prince of Wales, Tuxekan, and Kosciusko Islands include approximately 55,000 acres of productive old growth.

They are within the Phase I lands of the 2008 TLMP Timber Sale Adaptive Management Plan and are suitable for harvest, with the exception of portions currently designated as old growth reserves. There are 12 old-growth reserves within the above mentioned proposed selection areas. All or part of thrce of the four old growth reserves on Kosciusko Island would be removed from federal ownership, as would two of the three on Tuxekan Island. These lands represent a significant component of the TLMP conservation strategy area for wildlife. Loss of these old-growth areas would likely undermine the conservation strategy in TLMP and potentially lead to threatened and endangered species listings."

"Even though timber harvest in the proposed selection areas may have been considered in TLMP, the Forest Service is required to mitigate effects from such activities to avoid species listings, whereas private landowners do not have a similar requirement. "

If Sealaska applies the same logging practices on the proposed sites that it has applied to its previous selections, we can say without reservation that radical environmental groups will once again file petitions to list both the wolf and northern goshawk as endangered. Due to the politics surrounding this controversial issue, it is not beyond the realm of possibility that the eight small communities that oppose the existing legislation would join the environmental groups in filing a petition or file their own petition for listing. They fear their communities will cease to exist if S.881 passes and will fight for survival.

Considering the fact that in 2009 the United States listed the Queen Charlotte form of the Northem Goshawk as threatened throughout British Columbia, except for Vancouver Island where it was listed as endangered, it would seem reasonable to assume that the conditions leading to these listings could be duplicated in Alaska. Certainly, those areas identified in TLMP as necessary wildlife reserves should be seriously considered for protection of some sort. Most certainly, the State's Forest Practices Act does not provide the necessary oversight or guidelines.

Wolf population flucfuations tied to deer population declines have created concerns over intense logging practices which temporarily or permanently cause deer populations to decline markedly. This is especially true for Prince of Wales Island which has experienced significant deer population declines and corresponding declines in the wolf populations. State hunting regulations and federal subsistence regulations have already significantly reduced opportunities to harvest deer on Prince of Wales Island and surrounding areas. Additional hunting restrictions are likely if large scale timber harvest occurs in this area.

We have examined the listing petitions, records of decisions, proposed rules, TLMP, Forest-wide Wildlife Standards and Guidelines and the scientific information available to us. It is our professional opinion that inadequate professional assessments of the potential wildlife impacts of this legislation have been conducted. We believe it is essential that athorough analysis of the various land selections under consideration in S 881 and the selections made under the existing law be evaluated. There are complex trade offs that would affect the amounts of timber that could be harvested and the potential effects on listings ofendangered species.

We strongly recommend that you immediately request the involved agencies (U.S. Forest Service, U.S. Fish and Wildlife Service and the Alaska Department of Fish and Game) conduct an emergency assessment of the various land exchange options being considered. The assessment should include how the various options would impact deer, wolf and goshawk populations. It is essential that this analysis be complete before any final decision is made on land exchanges or land selections. Such an analysis can be completed in a few weeks if the agencies make it a priority.

With adequate input from the agency professionals, modifications to this legislation may be possible to dampen the potential listing possibilities. If either species is listed as either threatened or endangered the effect will be the elimination of any logging industry in the region—either on private or public lands. Remember when Weyerhaeuser Corporation said, "the spotted owl will never affect us."

Currently, the only analysis of the tradeoffs between the currently selected lands and those proposed in S 881 and FfR 2099 has been conducted by David Albert of The Nature Conservancy. His preliminary analysis of the ecological values associated with the various selection options shows great disparity in timber value and wildlife habitat between the currently selected areas and those proposed in S. 881 and HR 2099. The analysis is complex and according to Sealaska it is controversial. It shows that lands proposed for selection in legislation have some of the highest value old growth forest, wildlife habitat and karst formations in Southeast Alaska. This analysis, while usefiJ, does not consider the ramifications of the Endangered Species Act. An analysis of the ramifications for species listing conducted by the fed-

eral and state agencies responsible for managing the Tongass Forest is required in order that sound public policy decisions can be made.

We wish to clarify that this correspondence is being submiued by the three of us as wildlife professionals with over 75 years of experience with the Alaska Deparfinent of Fish and Game and does not reflect the position of anyone else or any organization.

We are willing to assist in the process of assuring that Sealaska Corporation receives its land entitlement. We stand ready to participate in any habitat and population assessments if we can help expedite the process or contribute our experiences in dealing with the Endangered Species Act.

Thank you for considering this recommendation.

DR. WAYNE REGELIN,
Director, Alaska Division of Wildlife Conservation 1995-2002.
Deputy Commissioner, Alaska Department of Fish and Game 2003-2006.

RON SOMERVILLE,
Director, Alaska Division of Wildlife Conservation 1979-1984.
Deputy Commissioner, Alaska Department of Fish and Game 1991-1993.

MATT ROBUS,
Director, Alaska Division of Wildlife Conservation 2002-2008.

ATTACHMENT 8

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF LAND MANAGEMENT,
Washington, DC, October 15, 2010.

Ms. Heather Pichter,
President, Edna Bay, Alaska, General Delivery, Edna Bay, AK.

DEAR MS. PICHTER: Thank you for your September 13, 2010, letter to Secretary of the Interior Ken Salazar requesting immediate conveyance of land to Sealaska Corporation under the Alaska Native Claims Settlement Act. Secretary Salazar has asked me to respond to your letter.

The Bureau of Land Management honors the responsibility of finalizing land entitlements and claims due Native corporations, Alaska Native individuals, and the State of Alaska under the Alaska Native Claims Settlement Act of 1971 (ANCSA), the Native Allotment Act of 1906, the Alaska Native Veteran's Allotment Act of 1998, and the Alaska Statehood Act of 1959. Sealaska filed its final land selection on June 10, 2008, in compliance with the deadline set by the Alaska Land Transfer Acceleration Act of 2004. In that letter, Sealaska requested that the BLM delay conveyance of remaining entitlements, pending the outcome of proposed federal legislation, S. 881 and H.R. 2099, the Southeast Alaska Native Land Entitlement Finalization Act. The BLM has complied with the corporation's request.

I appreciate your concerns and the concerns of those who signed the September 13 letter. I assure you the timely conveyance of Sealaska's 85,000-acre entitlement is important to BLM, as is the conveyances of each remaining entitlement. We continue to work closely with our land transfer clients to balance remaining work and meet client priorities.

We sent a copy of your letter to Sealaska and placed another in our files If you have additional questions please contact Ramona Chinn. Deputy State Director, Alaska Lands, at 907-271-3806.

Sincerely,

ROBERT V. ABBEY,
Director

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